

September 24, 2014

City of Bristol Tennessee
Ms. Shari Brown
Economic & Community Development Director
104 8th Street.
Bristol, Tennessee 37620

VIA ELECTRONIC MAIL

Dear Ms. Brown:

Responsive to your request, please find enclosed a file copy of draft regulations prepared in 2007 for a new R-M2, Mountainous Residential District in Bristol.

To further assist you, please also find enclosed a sampling of adopted hillside development regulations as follows:

- Oak Hill Tennessee Zoning Ordinance (*see* Sec. 14-238, Steep Slope Areas);
- Forest Hills Tennessee Zoning Ordinance (*see* Sec. 6.03, Steep Slopes, Hillside Protection, and Slippage Soils);
- Brentwood Tennessee Zoning Ordinance, Article III, Division 14 (Hillside Protection); and
- Concord California, Article VI (Hillside Development).

Please let me know if you require further assistance regarding this matter.

Very truly yours,



Jeffrey J. Broughton
Municipal Management Consultant

Cc: Pat Hardy

Sec. 301. R-M² District - Mountainous Residential.

This district will accommodate single-family residential development and zero-lot line cluster development with ample accompanying open space in mountainous or knobland areas where steep terrain prohibits conscientious development at higher densities. A maximum of two (2) dwelling units per acre are permitted in this district, with a density bonus allowing up to a total of four (4) dwelling units per acre.

1. *Permitted Principal Uses*

- a. One-family detached dwelling. Or just one-family dwelling?
- b. One-family attached dwelling.
- c. Municipal, county, state and federal uses.
- d. Public or private utilities and appurtenant structures necessary to service the residents of the area.

2. *Permitted Accessory Uses*

- a. Any use customarily incidental to the permitted principal use. In case a question arises as to the degree of incidentalness, the Board of Appeals shall decide.
- b. Accessory structures including garages, carports, utility storage structures, playhouse, tool house, or non-commercial greenhouse,
- c. Home occupation.
- d. Automobile parking.
- e. Signs.

3. *Special Uses*

- a. Residential zero-lot line cluster developments as provided in Section 307.
- b. Private swimming, tennis and similar sports clubs.

3. *Lot space* (See chart at end of this Chapter).

4. *Off-Street Parking.* Off-street parking shall be provided by all uses as required in Section 213. ~~The parking of heavy equipment or trucks with a cargo rating in excess of one ton in excess of one and a half tons shall be prohibited. This shall not be interpreted to apply to recreational vehicles, heavy equipment temporarily on location to perform a specific task, or noncommercial passenger vehicles such as buses.~~

5. *Fire Protection.* Dwellings with a first floor elevation above ___ MSL shall be constructed with a private sprinkler suppression system complying with ANSI-NFPA No. 13, Sprinkler Systems, which requirement shall be recorded on the deed of each lot. The sprinkler system shall be maintained in good working order in accordance with NFPA No. 13A, Sprinkler System Maintenance.

6. *Density Bonus.* A density bonus of up to a total of four (4) dwelling units per acre may be granted for projects that show special sensitivity to and protect the ecological and natural features of mountainous and knobland areas. The intent of the density bonus is to enhance the atmosphere, beauty, and well-being of the community by preserving parcels

so designated, as nearly as practicable, in their natural state. Projects that avoid ridge-top or above the tree-line development, minimize clear-cutting, and otherwise minimize land disturbance activities shall be considered more favorably.

Sec. 307. Zero Lot Line Developments.

2. *Zoning districts in which zero lot line developments are allowed.* Zero lot line developments are allowed in the R-2, R-3, and R-4 districts as Permitted Uses, and in the R-M2 District, B-3 General Business and the Planned Business District, by Special Use Permit. ~~Permitted attached dwelling uses in the R-2 District are limited to duplex or two-family dwellings.~~

3. *Permitted uses.* Detached, attached and semi-detached single-family dwelling units (including, but not limited to, zero lot line and common zero lot line dwelling units, townhouses and patio homes), which are, developed under the horizontal property act, or on individually platted lots. **Permitted attached dwelling uses in the R-2 District are limited to duplex or two-family dwellings.** Permitted uses shall also include customary accessory uses such as; garages, carports, utility storage structures, activity centers and recreational facilities, that are for the exclusive use of the residents of the development.

5. *Dwelling unit groups.* No more than ten single-family attached dwelling units may be contained within a dwelling unit group **for all districts except the R-M2 District, which district shall have a maximum of four attached dwelling units.** Dwelling unit groups shall be located a minimum of 20 feet from another dwelling unit group.

Sec. 308. Residential Space Requirement Chart.
TABLE INSET:

ZONE	SETBACKS	LOT SPACE	BUILDING AREA	HEIGHT
R-M2	RESIDENTIAL STRUCTURES			
	Front yard 30' Rear yard 50' Side yard on each side of every lot 15'	Minimum lot area— 0.5 acre Minimum lot width-- 100'	2 unit/acre maximum density 30% maximum lot coverage*	Dwellings 3 stories DISCUSS Accessory buildings 2 stories*
	ACCESSORY BUILDINGS			
	One story from any property line 5' Two story from any property line 10'			
	OTHER			

	PERMITTED STRUCTURES			
	Front yard 50' Rear yard 50' Side yard on each side of every lot 30'		30% maximum lot coverage*	Maximum 3 stories or 35 feet unless each side yard is increased over required minimum by 5' or fraction thereof of height over 3 stories



Zoning Ordinance

Zoning Ordinance Number 11-04 - Adopted July 21, 2011
Revised Zoning Ordinance Number 12-16 - Adopted January 24, 2013
Filming Ordinance Number 12-14 - Adopted February 21, 2013

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. BOARD OF ZONING APPEALS.
4. WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS ¹
5. FLOOD HAZARD PREVENTION ¹
6. FILMING AND STAGING

CHAPTER 1

PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Chairperson; rules; appointment.
- 14-104. Adoption of plan.
- 14-105. Compensation.
- 14-106. Plat approval.

14-101 Creation and membership

Pursuant to the provisions of T.C.A. §§ 6-19-101 and 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of nine (9) members; one (1) of these shall be the mayor or a person designated by the mayor and one (1) shall be another member of the board of commissioners selected by the board of commissioners; the other seven (7) shall be appointed by the mayor. All members of the planning commission shall be residents of the city. The seven (7) members appointed by the mayor shall serve terms of three (3) years each. The term of the mayor or designee shall run concurrently with the mayor's term of office. The term of the member selected by the board of commissioners shall run concurrently with his or her term of office or until replacement by the board of commissioners. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor.

¹ Wireless telecommunication towers and antennas and flood hazard prevention sections are not included as part of this document but can be found in the Municipal Code Title14, Chapters 4 and 5.

14-102 Organization, powers, duties, etc.

The planning commission shall be organized and shall carry out its powers, functions and duties in accordance with all applicable provisions of T.C.A. § 13-4-101 et seq. and as set forth in this ordinance.

14-103 Chairperson; rules; appointments

The planning commission shall elect a chairperson from among its appointed members. The term of the chairperson shall be one (1) year with eligibility for reelection. The planning commission shall adopt rules for the transaction of business which shall include, but not be limited to, the selection of additional officers from among its members it deems appropriate to fulfill the organizational needs of the planning commission, the requirements for the planning commission to make findings of fact, statements of material evidence and reasons for its actions as part of each motion or action of the planning commission and the keeping of a record of its resolutions, transactions, motions, actions, and determinations which shall be a public record.

14-104 Adoption of plan

The planning commission shall make and adopt an official general plan for the physical development of the municipality in accordance with T.C.A. § 13-4-201 et seq. The commission may from time to time amend, extend or add to the plan or carry any part of subject matter into greater detail as it may deem appropriate.

14-105 Compensation

No member of the planning commission shall receive any compensation for their services as a commissioner.

14-106 Plat approval

The commission shall approve or disapprove a plat within sixty (60) days after the initial consideration of the plat by the commission meeting in a regularly scheduled session, unless at the end of the sixty-day period there is a holiday or an unexpected interceding event that would close municipal or county offices and thus affect the normal computation of the sixty-day period, in which case the plat shall be approved or disapproved after the interrupted sixty-day period at the next regularly scheduled meeting of the commission; otherwise, the plat shall be deemed approved and a certificate to that effect shall be issued by the commission on demand. The applicant for the commission's approval may waive the time requirement set in this subsection (a) and consent to an extension or extensions of the applicable time period. When a plat has been filed with the appropriate officials of the planning commission, the plat shall be placed on the agenda of the planning commission

within thirty (30) days of the filing or the next regularly scheduled planning commission meeting after the thirty-day period. The applicant may waive the time frame requirement for the appearance of the plat on the agenda.

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CHAPTER 2

ZONING ORDINANCE

SECTION

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- 14-202 Purpose
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14-201 Title and Map

This chapter shall be known and may be cited as "The Zoning Ordinance of Oak Hill, Tennessee," and the map herein referred to, which is identified by the title, "Official Zoning Map, Oak Hill, Tennessee," and all explanatory matters thereon are hereby adopted and made a part of this chapter. The official zoning map shall be located in the city hall and shall be identified by the signature of the mayor attested by the city recorder. The official zoning map may be amended; provided, however, that, no amendment of the official zoning map shall become effective until after such change and entry has been made on such map and signed by the mayor and attested by the city recorder.

14-202 Purpose

The zoning regulations and districts as set forth in this chapter have been made in accordance with a zoning plan for the purpose of promoting the health, safety, morals and general welfare of the community. The regulations are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. This chapter has been prepared with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

14-203 Statement of Policy

The following policies related to the long-range development of the city are adopted as guides for the direction of this ordinance:

- (a) The City of Oak Hill shall be a residential community;
- (b) Development within the city should occur at low to very low densities in order to preserve an open character, protect tree cover, and protect the natural scenic beauty of the city;
- (c) Steep areas with slopes in excess of fifteen percent (15%) should be protected by prohibiting the removal of native vegetation and carefully locating houses and streets;
- (d) Flood-prone areas should be left as open space in order to reduce damages to property and threats to life;
- (e) The area surrounding the Radnor Lake State Natural Area should be given special protection due to the unique character of the natural area and the potential of land development having an adverse impact on the area.

14-204 Applicability

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly or by necessary implication permitted or authorized by this ordinance.

14-205 Severability

- (a) If any court of competent jurisdiction invalidates any provision of this ordinance, then such judgment shall not affect the validity and continued enforcement of any other provision of this ordinance.
- (b) If any court of competent jurisdiction invalidates the application of any provision of this ordinance to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.
- (c) If any court of competent jurisdiction invalidates any condition attached to the approval of a conditional use application or conditional use review, then such judgment shall not affect any other conditions attached to the same approval that are not specifically included in that judgment.

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POLICY, PURPOSE AND LEGAL STATUS PROVISIONS

Policy and Purpose

14-206 Purpose

This ordinance is enacted pursuant to Title 13 of the Tennessee Code Annotated for the following purposes:

- (a) To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people;
- (b) To divide the city into districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land;
- (c) To protect the character and maintain the stability of residential areas within the city, and to promote the orderly and beneficial development of such areas;
- (d) To provide adequate light, air, privacy, and convenience of access to property;
- (e) To regulate the intensity of open spaces surrounding buildings that is necessary to provide adequate light and air and protect the public health;
- (f) To establish building lines and the location of buildings within such lines;
- (g) To fix reasonable standards to which buildings or structures shall conform;
- (h) To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts;
- (i) To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;
- (j) To limit congestion in the public streets and so protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles;
- (k) To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and the bulk of buildings in relation to the land surrounding them;

- (l) To conserve the taxable value of land and buildings throughout the city;
- (m) To provide for the gradual elimination of those uses of land, buildings and structures and of these buildings and structures which do not conform to the standards of the districts in which they are respectively located and which are adversely affecting the development and taxable value of property in each district;
- (n) To provide for condemnation of such nonconforming buildings and structures and of land as the Board of Commissioners shall determine is necessary or appropriate for the rehabilitation or the area blighted by such buildings or structures;
- (o) To provide protection for the views and natural integrity of the Radnor Lake State Natural Area;
- (p) To define and limit the powers and duties of the administrative officers and bodies as provided herein;
- (q) These general purposes include the specific purposes stated in the various chapters throughout this ordinance.

Legal Status Provisions

14-207 Interpretation

In the interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

14-208 Relationship to other laws and private restrictions

- (a) Where the conditions imposed by any provisions of this ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or any other law, or ordinance of any kind, the provisions which are more restrictive shall apply.
- (b) This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance to the extent that they are more restrictive shall govern.

14-209 Ordinance provisions do not constitute permit

Nothing contained in this ordinance shall be deemed to be a consent, license, or permit to use any property or locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation, or activity.

14-210 Provisions are cumulative

The provisions of this ordinance are cumulative with any additional limitations imposed by all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter appearing in this ordinance.

14-211 Application of regulation

No structure shall be constructed, erected, placed or maintained and no land use commenced or continued within the city except as specifically or by necessary implication authorized by this ordinance. Conditional uses are allowed only on permit granted by the Board of Zoning Appeals upon finding that the specified conditions exist.

14-212 Exceptions, variances and conditional uses

Whenever the zoning ordinance in effect at the time of adoption of this ordinance has authorized any use which is not permitted as of right by issuing a variance, exception, or permit to locate in a district, such authorization may be continued, changed, extended, enlarged, or structurally altered only as set forth in the regulations governing nonconforming uses, buildings or structures and lots.

14-212.1 Renewals

Where no limitation of the use was imposed at the time of authorization such use may be continued. Where such use was authorized subject to a term of years, such use may be continued until the expiration of the term, and thereafter the Board of Appeals which originally authorized such use may, in appropriate cases, extend the period of continuance for one (1) or more terms of not more than five (5) years each. The Board of Appeals may prescribe appropriate conditions and safeguards to minimize adverse effects of such use on the character of the neighborhood.

14-212.2 Change of use

In no event shall such use be changed, and no agency shall be empowered to permit such use to be changed, except to a conforming use or nonconforming use as provided for in the regulations governing nonconforming uses, buildings or structures and lots. However, a change in occupancy or ownership shall not, by itself, constitute a change in use.

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Construction of Language

14-213 Rules for construction of language

In the construction of this ordinance, the rules and definitions contained in this chapter shall be observed and applied, except when the context clearly indicates otherwise:

- (a) The particular shall control the general.
- (b) The word "shall" is always mandatory and not discretionary.
- (c) The word "may" is permissive.
- (d) The word "lot" shall include the words "place" or "parcel."
- (e) The word "structure" includes all other structures, or parts thereof, of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (f) In the case of any difference of meaning or implication between the text of this ordinance and any caption, illustration or table, the text shall control.
- (g) The word "permitted" or words "permitted as of right" mean permitted without meeting the requirements for a conditional use permit.
- (h) The words "conditionally permitted" or "permitted by conditional use permit" mean permitted subject to the requirements for a conditional use and as permitted by the Board of Zoning Appeals pursuant to § 14-310 et seq.
- (i) Words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (j) Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:
 - (1) "And" indicates that all connected items, conditions, provisions or events shall apply.
 - (2) "Or" indicates that the connected items, conditions, provisions, or events shall apply.

(3) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply individually, but not in combination.

(k) All public officials, bodies, and agencies to which reference is made are those of the City of Oak Hill, Tennessee.

Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, all terms shall be used as commonly defined, except where they either are specifically defined or used in a context that clearly indicates a different meaning.

Access – A private driveway or other point of vehicle access, that intersects or connects to a public street.

Accessory Use – A use that is customarily incidental, appropriate, and subordinate to the principal use of land or buildings and is located upon the same lot.

Accessory Structure – A structure that is subordinate in use and square footage to a principal structure or permitted use.

Basement – The portion of a building that is located at least partially underground.

Building – A structure with a roof, intended for the shelter or enclosure of persons or property. Where roofed structures are separated from each other by party walls having no openings for passage, each portion so separated shall be considered a separate building.

Building envelope – The area of a lot in which building(s) may be located taking into account applicable setbacks and minimum yard requirements.

Building line – A line parallel to the right-of-way line at the point of the front yard setback or building façade, whichever is greater.

Building permit – A written permit required by this ordinance prior to commencement of certain types of construction.

Bulk – Describes the size of buildings or other structures, and their relationship to each other and to open areas and lot lines, and, therefore, includes:

(a) The size (including height and floor area) of other structures,

- (b) The area of the zoning lot upon which a residential building is located, and the number of dwellings within such buildings in relation to the area of the zoning lot,
- (c) The location of exterior walls of buildings or structures in relation to lot lines, to other walls of the same building, to legally required windows, or to other structures, and
- (d) All open areas relating to buildings or other structures and their relationship thereto.

Certificate of Occupancy – The final permit or authorization issued by the city allowing occupancy or use of a building, and certifying that the building has been constructed in accordance with all applicable requirements.

Church – A building or buildings where people regularly congregate to participate in or hold religious services, meetings or other similar activities.

Commercial use – Any nonresidential use of land engaged in commerce or commercial activity such as wholesale or retail trade or the provision of services.

Conditional use – A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning division or districts but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. For the purposes of this ordinance, conditional uses shall be construed as synonymous with special exceptions as authorized by Tennessee Code Annotated § 13-7-206.

Construction – The placing of construction materials in their permanent position, fastened in a permanent manner; actual work in excavation, grading or any land disturbance, or the demolition or removal of an existing structure begun preparatory to rebuilding.

District – One (1) or more sections or areas of the City of Oak Hill, for which the regulation governing the height, area, use of buildings and premises, are the same.

Dwelling – a structure designed and used primarily for residential human habitation. For the purpose of this chapter, the word “dwelling” shall not include a travel trailer, hotel, motel, dormitory or extended stay hotel.

Dwelling, one-family – a residential structure dwelling other than a mobile home, located on a single lot, for occupancy by one family or single housekeeping unit and constructed with no connection by a common wall. The terms, “one-family

dwelling,” “single-family dwelling,” “one-family residence,” and “single-family residence,” as used in this ordinance shall be synonymous. A mobile home shall qualify as a one-family dwelling only to the extent as this ordinance is pre-empted by state law.

Driveway – Area designated and constructed for vehicular ingress and egress on property and to Public Street.

Façade - The exterior wall on the front, side, or rear elevation of the building.

Family – One or more persons occupying a premise and living as a single, nonprofit, housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity, rooming house, hotel, or other structures designed for transient residence.

(1) A dwelling will be considered a single-family residence only if its permanent occupants are limited to one of the following categories:

(a) One individual.

(b) Any number of persons related by blood, marriage, adoption or foster care.

(c) A group of persons consisting of an individual or any number of persons related by blood, marriage, adoption or foster care, such occupant(s) being referred to as the primary occupant(s) for the purposes of this section; plus no more than one person who is not related to the primary occupant(s); all of whom occupy the dwelling and function as a single housekeeping unit with common kitchen facilities. Providing unrestricted access to the entire dwelling to all occupants; sharing food and other necessities; and sharing household expenses and responsibilities are indications that a group of persons is living as a single housekeeping unit. For purposes of this section, at least one of the primary occupants of a residence must have evidence of a legal right to occupy the property, such as being named on a deed or lease to the property.

Not more than eight (8) unrelated persons with disabilities (as defined by state law and as determined by any duly authorized entity, including governmental agencies or licensed medical practitioners) pursuant to the requirements of T.C.A. § 13-24-102. Such a residence may also be occupied by three additional persons acting as house parents or guardians, who need not be related to each other or to any of the other persons residing in the home. Notwithstanding the foregoing, a group home operated as a for-profit commercial enterprise shall not be a permitted use within a

residential zoning district. As used in this section, “persons having mental illness” does not include: Persons who have a mental illness and, because of such mental illness, pose a likelihood of serious harm as defined in T.C.A. § 33-6-501, or who have been convicted of serious criminal conduct related to such mental illness.

- (2) A person shall be considered to be a permanent occupant of a dwelling for purposes of this section if such person:
 - (a) Occupies a dwelling for more than 21 days within any 12-month period;
 - (b) Registers to vote using the address of a dwelling;
 - (c) Receives mail at a dwelling;
 - (d) Registers a vehicle or applies for a driver’s license using the address of the dwelling; or
 - (d) Is registered to attend school, using the address of the dwelling.
- (3) In addition to the foregoing, the following are not considered to be single-family residences:
 - (a) Boarding houses.
 - (b) Apartment houses.
 - (c) Dwellings in which one or more rooms are rented to unrelated tenants.
 - (d) Dwellings in which separate portions are designated for or used as separate housekeeping units.
 - (e) Structures or portions of structures which are designed or constructed for any of the above purposes; and such structures and uses of structures are explicitly prohibited in each residential zoning district unless otherwise specifically permitted. Notwithstanding the foregoing, single-family residence may include a dwelling which includes separate quarters for persons who are related by blood, marriage or adoption to the primary occupants, provided such quarters are connected by interior passageways to the other portions of the dwelling, and are not rented to any unrelated tenants or otherwise used in violation of this chapter. If

more than one meter is installed for the same type of household utility service, it will be presumed that a structure is not being used as a single-family residence.

Garage – A building, outbuilding or accessory structure used primarily for the parking or storage of vehicles.

Height (of building) – The vertical distance from the average elevation of the finished grade along the front of the building to the highest point of the roof surface.

Home Occupation – A business, profession, occupation, or trade that is conducted within a dwelling for the economic gain or support of a resident of the dwelling and is incidental and secondary to the residential use.

Impervious Surface – Buildings, parking areas, driveways, streets, sidewalks, structures, areas of concrete, asphalt, gravel, or other compacted aggregate, and areas covered by the outdoor storage of goods or materials that do not absorb water.

Incidental – Being secondary, accessory, subordinate or ancillary.

Incidental alterations –

- (a) Changes or replacements in the nonstructural parts of a building or other structure without limitations to the following examples:
 - (1) Alteration of interior partitions in a nonconforming residential building, provided that no additional dwellings are created;
 - (2) Alterations of interior non-load bearing partitions in all other types of buildings or other structures;
 - (3) Replacement of, or minor changes in capacity of, utility pipes, ducts, or conduits; or
- (b) Changes or replacements in the structural parts of a building or other structure, limited to the following examples or others of similar character or extent:
 - (1) Making windows or doors in exterior walls;
 - (2) Replacement of buildings facades having non-load bearing capacity;
 - (3) Strengthening the floor load-bearing capacity, in not more than ten percent (10%) of the total floor area, to permit the accommodation of specialized machinery or equipment.

Landscaping – The planting and maintenance of trees, shrubs, lawns, and other ground cover or materials, provided that terraces, fountains, retaining walls, street furniture, sculptures, or other art objects, and similar accessory features may be included as landscaping if integrally designed.

Lighting, Private – Exterior lights and lighting fixtures intended to illuminate private on-site parking areas, access drives, and other on-site areas.

Lot – A piece or parcel of land occupied, or to be occupied, by one (1) principal building and its accessory buildings, and including the open spaces required in this ordinance.

- (1) Front Lot Line. The front lot line is the parcel boundary abutting the public right-of-way.
- (2) Rear Lot Line. The lot line opposite and the most distant from the front lot line.
- (3) Side Lot Line. Any lot line not a front line or rear lot line shall be termed a side lot line.

Lot coverage – The gross area of a lot covered by any impervious surface, including the square footage of the area of land occupied by the ground floor of any building, or other structure including driveways and swimming pools.

Lot frontage – The front of a lot shall be construed to be the portion nearest the public right-of-way extending from the front lot line. For the purposes of determining yard requirements on corner lots and through lots, all lines of a lot abutting a public right-of-way shall be considered frontage (or front lot lines).

Lot of record – A lot or tract of land, described by deed and/or subdivision plat, filed in the Register’s Office, Davidson County, Tennessee.

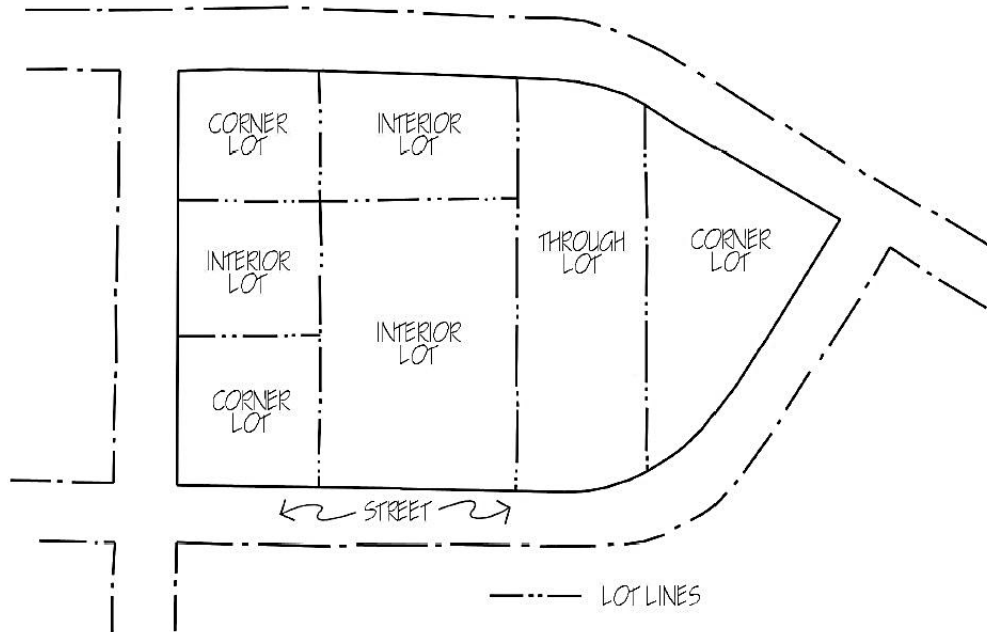
Lot of Record, Nonconforming – A lot of record that was legally established before adoption of this ordinance, or any subsequent amendment thereof, that does not comply with the current lot area standards within its zoning district.

Lot types – The diagram (Figure 1) which follows illustrates terminology used in this ordinance with reference to corner lots, interior lots, and through lots:

- (1) Corner Lot - A lot located at the intersection of two (2) or more streets (public or private) or on two (2) parts of the same street forming an interior angle of less than one hundred thirty-five degrees (135°).
- (2) Interior Lot, defined as a lot other than a corner lot with only one (1) frontage on a right-of-way.

(3) Through Lot, defined as a lot other than a corner lot with frontage on more than one right-of-way. Through lots abutting two (2) right-of-ways may be referred to as double frontage lots.

Figure 1
LOT EXAMPLES



SOURCE: THE LATEST ILLUSTRATED BOOK OF
DEVELOPMENT DEFINITIONS,
LINDBLOOM AND MOSKOWITZ, 2004.

Manufactured Home – A factory-built, single family structure that meets the Federal Manufactured Home Construction and Safety Standards. This type of structure is also referred to as a modular home and is fixed in place and not considered mobile.

Mobile Home – A manufactured residential structure that is built on a chassis designed to be used as a dwelling with or without a permanent foundation.

Nonconformity – An existing use, structure, lot of record, or sign that does not conform with one or more provisions of this ordinance.

Nonconforming Structure – A structure or portion thereof, not including signs, legally developed before the effective date of this ordinance, or any amendment thereto, but that does not comply with all ordinance requirements.

Nonconforming use, building/structure, or lot – The use of a building or land, or building/structure, or lot lawful at the time of the enactment of this ordinance that does not conform with the provisions of this ordinance for the district in which it is located.

Outdoor Storage – The keeping in an unroofed area of any goods, junk, material, merchandise in the same place for more than twenty-four (24) hours.

Pool House (Cabana or Bath House) – A permitted accessory structure, subject to the requirements of Section 14-232, to be used ancillary to and in conjunction with a private swimming pool, tennis or sport court.

Private swimming pool – Any pool, hot tub, spa or receptacle of water intended for swimming, wading, or recreational bathing.

Public Building or Facility – Any building, structure, property or other facility that is owned, leased or otherwise used by a governmental body or public entity.

Public Utility or Facility – Buildings, structures, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures related to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

Recreation equipment – see definition of structure types below.

Recreation facilities, private – A facility designed for the conduct of sports and leisure-time activities for the use of the household and guests, and located on a lot as an accessory use to a residence.

Recreational vehicles – Any building, structure, or vehicle designed and used for living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place, and automobiles when used for living or sleeping purposes and including pick-up coaches (campers), motorized homes, boats, travel trailers, and camping trailers not meeting the specifications required for a manufactured home or mobile home.

School – A public, parochial, private, charitable, or nonprofit facility providing primary and/or secondary educational instruction which may include recreational uses and other incidental facilities for students, teachers and employees.

Setback line – A line running parallel to the right-of-way or property lines which establish the minimum distance the principal building must be setback from the right-of-way or property line.

Story – A portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling next above it. The following shall be deemed a half (1/2) story:

- (a) A basement or cellar when half or more of the floor to ceiling height (more than half of the floor area) is above grade.
- (b) An attic or similar space under a gable, hip, or gambrel roof, the wall plates of which any exterior walls are not more than two feet (2') above the floor of such story.

Street – A public or approved private right-of-way, other than an alley, used for vehicular traffic and providing access to abutting properties.

Structure – Anything constructed or erected requiring more or less permanent location on the ground or attachment to something having permanent location on the ground, excluding wheels. Any new structure requires a building permit.

Subordinate – Being secondary, ancillary, accessory or derivative.

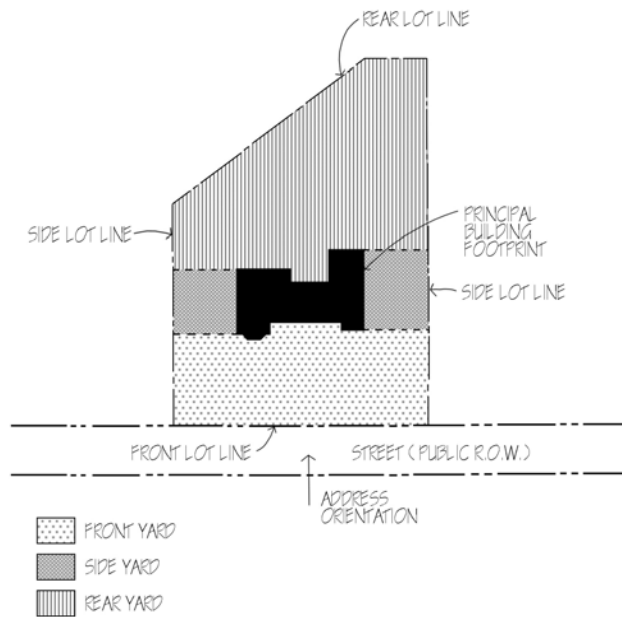
Temporary Structure – A structure erected without any foundation or footings and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Temporary Use – A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

Use – The performance of a function or operation which constitutes the use of land or a structure.

Use and occupancy permit – See *Certificate of Occupancy*

Figure 2
YARD EXAMPLE



Yard – Open space on a lot which is unoccupied and unobstructed from the ground upward except as permitted in this ordinance.

Yard, front – The yard from the front lot line to the front façade of the principal structure, across the entire width of the lot. The front yard shall include the yard between the closest point on the front of the principal structure and the nearest side lot line and the front lot line. See Figure 2.

Yard, rear – The yard from the rear of the lot to the rear façade of the principal structure, across the entire width of the lot. The rear yard shall include the yard between the closest point on the rear of the principal structure and the nearest side lot line and the rear lot line. See Figure 2.

Yard, side – The yard on one or more sides of a principal structure extending from the principal structure to the side property line. See Figure 2.

Figure 3
CORNER LOT YARD EXAMPLES

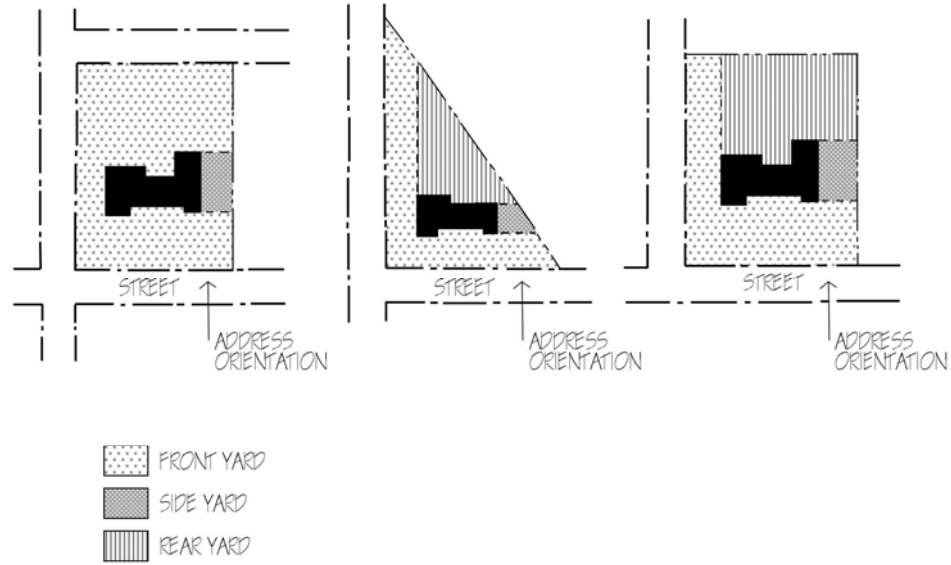
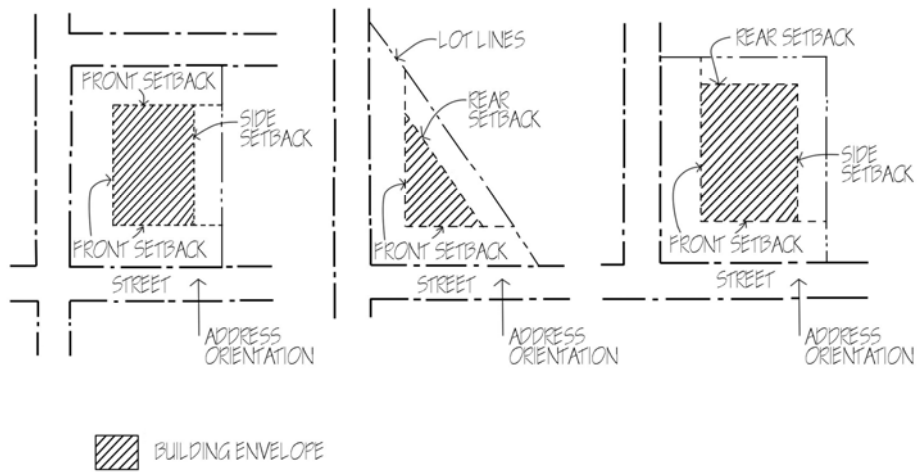
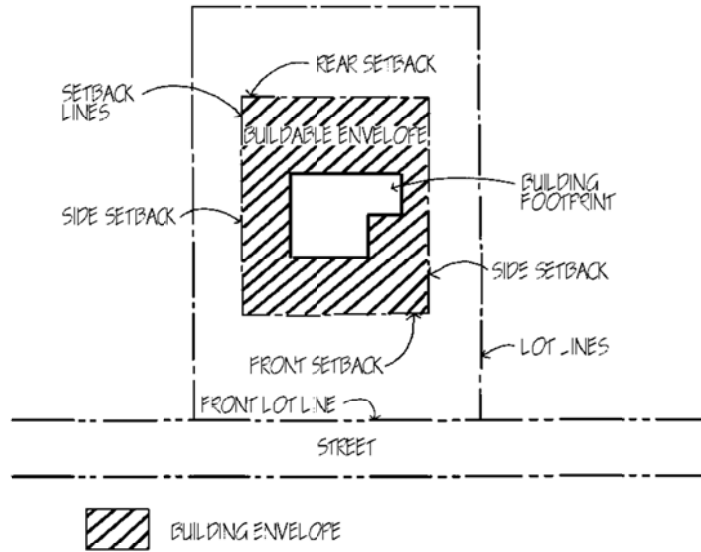


Figure 4
CORNER LOT BUILDING ENVELOPE AND SETBACKS



SOURCE: THE LATEST ILLUSTRATED BOOK OF
DEVELOPMENT DEFINITIONS
LINDBLOOM AND MOSKOWITZ, 2004.

Figure 5
BUILDING ENVELOPE AND SETBACK EXAMPLES



SOURCE: THE LATEST ILLUSTRATED BOOK OF
DEVELOPMENT DEFINITIONS
LINDELOOM AND MOSKOWITZ, 2004.

**ESTABLISHMENT OF DISTRICTS –
PROVISIONS FOR OFFICIAL ZONING MAP –
APPLICATION OF DISTRICT REGULATIONS**

Establishment of Districts

In order to implement all purposes and provisions of this ordinance, the following districts are hereby established:

Residential A (10,000 Square Feet) District
Residential B (20,000 Square Feet) District
Residential C (1 Acre) District
Residential D (2 Acres) District
Residential E (3 Acres) District
Residential F (4 Acres) District

Provisions for Official Zoning Maps

14-214 Incorporation of maps

The boundaries of districts established by this ordinance are shown on the Official Zoning Map, which is hereby incorporated into the provisions of this ordinance. The zoning map in its entirety, including all amendments, shall be as much a part of this ordinance as if fully set forth and described herein.

14-215 Identification of official zoning map

The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Recorder, and designated as the "Zoning Map, Oak Hill, Tennessee."

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the City Manager, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city.

14-216 Replacement of official zoning map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of Commissioners may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but not such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

All prior Official Zoning Maps or any significant parts thereof shall be preserved, together with all available records pertaining to their adoption or amendment.

Rules for Interpretation of District Boundaries

14-217 Rules

When uncertainty exists as to the boundaries of districts shown on the Official Zoning Map, the following shall apply:

- (a) Boundaries indicated as approximately following the center lines of right-of-ways, highways, or alleys shall be construed to follow such center lines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- (d) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (e) Boundaries indicated as parallel to or extensions of features indicated in subsection "a" through "d" above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of map.
- (f) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections "a" through "e" above, the Board of Zoning Appeals shall interpret the district boundaries.

Application of District Regulations

14-218 General district regulations

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of use, structure or land, and particularly, except as hereinafter provided:

- (a) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in

conformity with all of the regulations herein specified for the district in which it is located.

- (b) No building or other structure shall hereafter be erected or altered:
 - (1) To exceed the height or bulk,
 - (2) To accommodate or house a greater number of families,
 - (3) To occupy a greater percentage of lot area,
 - (4) To have narrower or smaller rear yards, front yards, side yards or other open space, than herein required; or in any other manner contrary to the provisions of this ordinance.
- (c) Except as otherwise expressly permitted herein, no part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- (d) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein, except by taking for a public use. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

DISTRICT REGULATIONS

Residential Districts

14-219 Use and structure provisions

The uses and structures indicated herein may be permitted within the various residential districts only in the manner specified herein and subject to any design criteria that apply.

14-219.1 Uses permitted

(a) Principal permitted use

The principal permitted use for all residential districts is single-family dwellings. Structures intended for occupancy by more than one family and other multi-family dwellings are not permitted in residential districts. Only one (1) single-family dwelling is permitted on a lot. The principal permitted use and permissible conditional uses are listed in Table I.

(b) Permitted accessory uses and structures

In addition to single-family dwellings, accessory uses and structures customarily associated with and appropriate, incidental, and subordinate to single-family dwellings may be permitted. The permitted accessory uses and structures are described in § 14-232 of this Article and additional permitted encroachments are described in § 14-230. Home occupations may be permitted if meeting the requirements set out in § 14-234.

14-219.2 Conditional uses and associated structures

Conditional uses and associated structures permitted subject to the review of the Board of Zoning Appeals and to the standards contained in § 14-310 et seq. are listed in Table I.

14-219.3 Prohibited uses and structures

Any use or structure not specifically permitted by right or by conditional use as presented in Table I is prohibited.

14-220 Bulk, yard, and density regulations

The regulations appearing below apply to lots and buildings or other structures located on any lot or portion of a lot including all new development, enlargements, extensions, or conversions. Existing buildings or other structures which do not comply with one or more of the applicable bulk regulations are classified as

nonconforming and are subject to the provisions of Regulations governing nonconforming uses, buildings or structures and lots.

14-220.1 *Minimum lot area*

Within all residential districts, the minimum size lot and width of lot used for residential purposes shall be as established in Table II.

14-220.2 *Maximum lot coverage*

Within all residential districts, the maximum lot coverage by all buildings and impervious surfaces shall not exceed the greater of the percentage of lot area or square footage as established in Table II.

14-220.3 *Maximum permitted height*

No building shall exceed the height requirements as determined in Table II.

14-220.4 *Density regulations*

The maximum residential density permitted on any zone lot shall be controlled by the lot area per dwelling as established in Table II.

14-220.5 *Yard requirements*

Within all residential districts, the minimum yard requirements established in Table II shall apply.

14-220.6 *Average front yard requirement*

The front setback line shall be determined by 90% of the average of the closest primary structures on each side of the subject lot or the distances in Table II, whichever is greater; provided that no front yards shall be required to be greater than one hundred fifty (150) feet in depth.

14-220.7 *Lot depth and lot width requirements*

The minimum front lot line and the lot width to depth ratio are listed in Table II of the code. The minimum lot frontage requirements vary between fifty feet (50') and two-hundred and twenty five feet (225') based upon the minimum lot sizes. The

intent of these minimums is to complement the lot width to depth ratios. For example, a lot with a minimum area of ten thousand (10,000) square feet would have a minimum lot frontage of 50 feet, and thereby have a maximum depth two hundred feet (200') to achieve the minimum lot area based upon the four to one (4:1) depth to width ratio.

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TABLE I

PERMITTED AND PERMISSIBLE CONDITIONAL USES

<i>Uses</i>	<i>Residential Districts</i>					
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>
Single-family dwelling	P	P	P	P	P	P
Public parks & playgrounds	C	C	C	C	C	C
Churches	N	N	C	C	C	C
Public & private schools	N	N	C	C	C	C
Temporary buildings and uses	C	C	C	C	C	C
Public buildings and utilities	C	C	C	C	C	C
Non-profit historic buildings	N	N	C	C	C	C

Key

P-Permitted as of right

C-Permitted by conditional use permit subject to the standards of Article 6

N-Not Permitted

TABLE II
LOT, YARD, BULK, AND DENSITY REQUIREMENTS

<i>Requirements</i>	<i>Residential Districts</i>						
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>	
Minimum lot area	10,000 sq. ft.	20,000 sq. ft.	1 acre	2 acres	3 acres	4 acres	
Maximum lot coverage The greater of the following square feet or % of actual lot size	5,000 sq. ft. or 50%	9,000 sq. ft. or 45%	15,246 sq. ft. or 35%	26,136 sq. ft. or 30%	26,136 sq. ft. or 20%	26,136 sq. ft. or 15%	
Maximum height	2 ½ stories/ 35'	2 ½ stories/ 35'	2 ½ stories/ 40'	2 ½ stories/ 40'	2 ½ stories/ 50'	2 ½ stories/ 50'	
Minimum yard requirements	Front ¹	30'	40'	75'	75'	100'	150'
	Side	7'	12'	25'	30'	40'	50'
	Rear	30'	40'	60'	70'	100'	100'
Minimum Front Lot Line ²	50'	50'	100'	150'	175'	225'	
Maximum Lot Depth/Lot Width Ratio ³	4:1	4:1	4:1	4:1	4:1	4:1	

¹Whichever is greater from this table or § 14-220.6

²Lots on cul-de-sacs, which are the circular portion at the end of a public or private dead end street are exempt from this provision; but must have a minimum front lot line of at least 40 feet measured along the curve at the edge of the right of way; these lots must still achieve the maximum lot depth to lot width ratio.

³Lot width is measured at the narrowest point of the respective lot and lot depth is measured at the deepest point of the lot.

Supplementary District Regulations

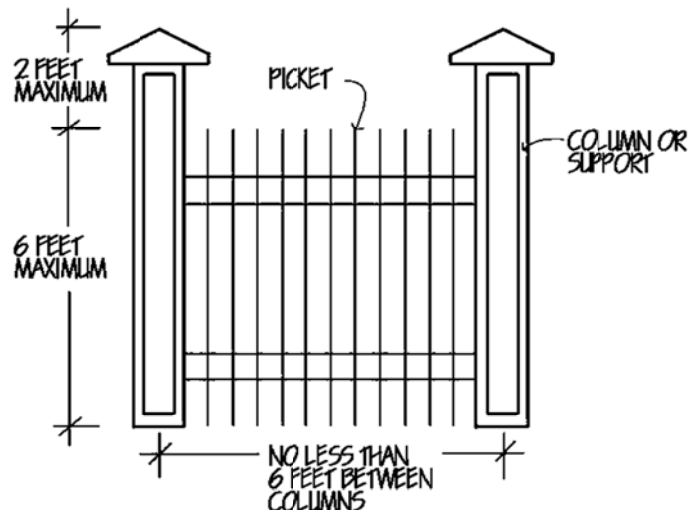
The regulations contained herein are supplemental to the district regulations.

14-221 Visibility at intersections

On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to be grown in such a manner as obstruct the visibility between a height of two and one-half feet and ten feet (2½' - 10') above the centerline grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining points along said right-of-way lines fifty feet (50') from the point of the intersection, known as the "sight triangle."

14-222 Fences, walls, and hedges

Notwithstanding other provisions of this ordinance, fences and walls not more than six feet (6') high may be erected in any yard, but no such fence or wall or hedges or shrubbery shall be erected or grown in violation of § 14-221 above. Column or post finials (including bases) may exceed the maximum fence height by not more than two feet (2') or thirty-three percent (33%) of the post height, whichever is less. In addition, the columns or posts shall be placed no less than six feet (6') on center with the exception of access gates, which may be placed closer together. This subsection shall not be construed to prohibit the installation of retaining walls or other similar structures required for the safe development of a property and approved by the City.



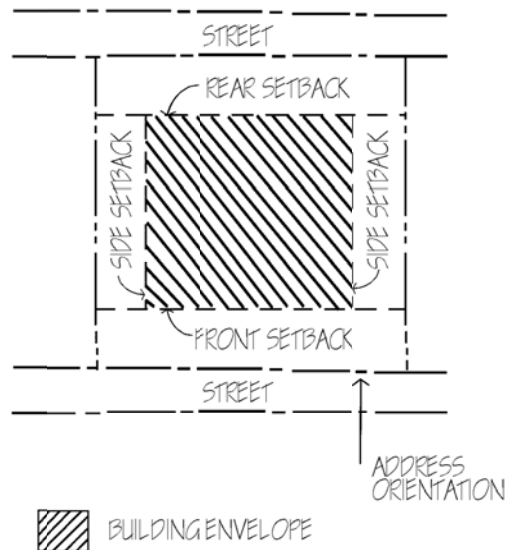
14-223 Exception to height regulations

The height limitation contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances not intended for human occupancy placed above the roof level. However, these elements shall not exceed the height of the structure on which they are attached by more than fifty percent (50%).

This exception shall not apply to light standards for athletic fields or parking lots which may only be permitted by conditional use.

14-224 Rear yard abutting a public street

When the rear yard of a lot abuts a public right-of-way, all structures built in that rear yard shall observe the same setback from the right-of-way line, center line of the street, or property line required for adjacent properties which front on that right-of-way. In addition, any structure located within twenty-five feet (25') of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that right-of-way.



SOURCE: THE LATEST ILLUSTRATED BOOK OF
DEVELOPMENT DEFINITIONS.
LINDBLOOM AND MOSKOWITZ, 2004.

14-225 Access to Lots; Private Roads.

No building shall be erected on any lot that does not abut a public street or a City approved private road for a distance equal to or greater than the applicable minimum front lot line distance for such lot as set forth in Table II. All private roads must be built in accordance with the public roads standards as adopted by the City. All driveways shall be set back at least five feet (5') from the closest property line of an adjacent lot in districts C, D, E, and F.

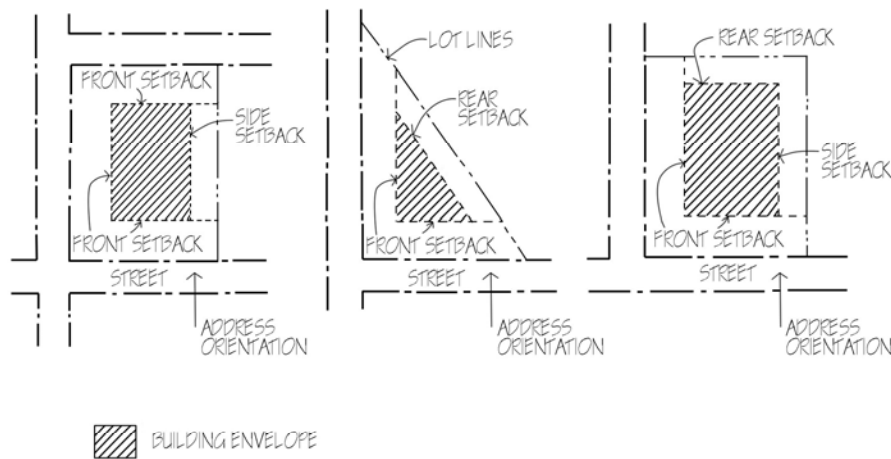
14-226 Minimum lot area

No existing yard or lot shall be reduced in dimension or area below the minimum requirements set forth herein. This section shall not apply when a portion of a lot is acquired or dedicated for a public purpose.

14-227 Corner lots

The rear yard setback requirements for corner lots shall apply to the portion of the lot which is opposite the front lot line. The front lot line shall be determined from the right of way that is the mailing address of the property.

14-228 Reduction in lot area prohibited



SOURCE: THE LATEST ILLUSTRATED BOOK OF
DEVELOPMENT DEFINITIONS
LINDBLOOM AND MOSKOWITZ, 2004.

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per dwelling, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired or dedicated for a public purpose.

14-229 Repealed by Ordinance 12-03 (reference Title 15-104)

14-230 Permissible structures and setback encroachments

In all districts, the following structures are permissible in any yard; provided the structures shall not exceed 14' in height and that they shall meet and comply with all other provisions herein, and shall be setback from the property line a minimum of ten feet (10'):

(a) In any yard:

- Arbors and trellises.
- Awnings or canopies projecting from a building wall may encroach over a building setback line not more than six feet (6') and having no supports other than provided by the wall or its integral parts.
- Basketball goals or other similar recreational structures.
- Chimneys projecting from a building wall may encroach not more than three feet (3') over a building setback line.
- Eaves, gutters, or downspouts projecting from a building wall may encroach over a building setback line not more than twenty-four inches (24").
- Fire escape or staircases projecting from a building wall, the riser of which shall be at least fifty percent (50%) open and whose vertical projection downward may encroach over a building setback line not more than three feet (3').
- Fountains.
- Mail boxes; may be provided at the front lot line.
- Open terraces, including natural plant landscaping.
- Retaining walls (no minimum setback requirement).
- Sculpture or other similar objects of art.
- Street furniture such as, but not limited to, benches, drinking fountains, light standards, and directional signs.

(b) The following structures are permissible in any rear yard only:

- Clothes poles or clotheslines, as long as visual screening is provided to adjacent properties.
- Storage buildings, gazebos and / or tree houses.
- Parking areas subject to the requirement of § 14-236.

14-231 Limitations on farming

Farming activities, including agriculture and horticulture, may be conducted except that the following are prohibited activities on any lot within the City of Oak Hill:

Dairies; kennels; rabbit, goat, or animal raising activities; hatching, raising, fattening and/or butchering of chickens, pigeons, turkeys, or other poultry; hog and other livestock feeding; and commercial plant nurseries and greenhouses.

Chickens solely used for egg production are allowed and limited to two (2) chickens per lot.

Horses and / or ponies may be kept for personal use only provided there shall be a minimum of two (2) acres of fenced and suitable pasture area available for the first horse and not less than one (1) additional acre of fenced and suitable pasture area available for each additional horse. If additional fenced and suitable pasture area is available on an adjacent lot, proof of such land availability shall be required in writing and recorded with the Davidson County Register of Deeds.

14-232 Accessory uses and structures

It is the intent of this section that all accessory buildings shall be unobtrusive, should not compete visually with the principal structure; and should not detract from the character of the surrounding neighborhood. It is further the intent of this section that accessory buildings should remain subordinate, in terms of mass, size and height, to the principal structure. Any accessory building or structure not specifically listed herein shall be prohibited.

(a) Accessory uses

- (1) Total vehicle storage space may be provided for four (4) motor vehicles on any lot in districts A, B and C, and up to eight (8) motor vehicles on any lot in districts D, E and F. No garage or carport shall have openings for ingress or egress of vehicles into and out of the structure where the sum of such openings exceeds 40 feet along the same face of the structure. Not more than one (1) commercial vehicle may be parked on any residential lot. The commercial vehicle shall be parked in a garage or at all times.

- (2) Sleeping quarters for servants or employees are only allowed as part of the main dwelling or residence and may not be detached from residence, nor may they be equipped with cooking or housekeeping facilities.

(b) Permissible Accessory Structures

- (1) A private stable for the care and housing of horses and / or ponies. The stable shall be located within the building envelope and the rear yard. All stables shall not be greater than twenty-five feet (25') in height or 900 square feet. The design of the stable shall utilize the same architectural style as the principal structure.
- (2) Private swimming pools subject to further provisions herein. The pool shall be located within the building envelope and in the rear yard.
- (3) A pool house, cabana or bath house ("pool house") to be used incidental to a swimming pool, tennis or sport court; provided, that the pool or sport court shall be completed prior to or constructed simultaneously with the pool house. A pool house may include bathrooms and dressing rooms, but shall not include a kitchen or cooking facilities. A pool house may also contain a wet bar, including an under-counter refrigerator. A pool house shall not be used as a permanent or temporary sleeping quarters, a guest house or dwelling. A pool house shall not be larger than twenty-five percent (25%) of the square footage of the principal structure, not to exceed twelve hundred (1,200) square feet, and shall not be greater than twenty-five feet (25') in height. The structure shall be located within the building envelope and in the rear yard. The design and construction of the pool house shall utilize the same architectural style and materials as the principal structure.
- (4) Small accessory buildings for the storage of small garden and household tools, lawn mowers, and other similar equipment ("storage buildings"). Storage buildings shall be one (1) story and no greater than fourteen feet (14') in height, nor larger than two hundred (200) square feet. Only one storage building may be located on a lot. Storage buildings shall be located in the rear yard and a minimum of ten feet (10') from any lot line.
- (5) Recreation facilities consisting of tennis courts, basketball courts, and similar play apparatus but not including tree houses, or playhouses exceeding twenty-five (25) square feet, swimming pools or sheds utilized for storage of equipment. These facilities shall be located within the building envelope and the rear yard. Any pole lighting installed for these facilities shall comply with the dark sky requirements in § 14-241.
- (6) Gazebos consisting of a detached, covered, freestanding, open-air structure having a maximum height of fourteen feet (14') and a maximum

area of six hundred (600) square feet designed for recreational use and not for storage or habitation. Gazebos shall be located in the rear yard and a minimum of ten feet (10') from any lot line.

- (7) Patios consisting of a level surfaced area directly adjacent to a principal building at or within three (3) feet of the finished grade with one (1) or more open sides whose principal use shall be for indoor-outdoor recreation. Patios shall be located within the building envelope and in the rear yard.
- (8) Tree houses, playhouses, dog houses consisting of a freestanding structure, shall have a maximum height of twelve feet (12') and an area not to exceed one hundred and twenty (120) square feet. These structures shall be located in the rear yard and a minimum of ten feet (10') from any lot line.
- (9) Guard houses located on a private road or entrance to a residential property for the purpose of manually or electronically regulating and monitoring pedestrian and/or vehicular traffic. The guard house may encroach over the front building setback line but shall be at least forty feet (40') from the public right-of-way or private access easement and shall include a turnaround for vehicles with a minimum radius of twenty feet (20'). The structure shall not exceed seventy-five (75) square feet and shall be designed with the same architectural style and material as the principal structure.
- (10) A detached garage for vehicular parking shall not be used as a permanent or temporary sleeping quarters, a guest house or dwelling. A detached garage shall not include a kitchen, cooking or bathing facilities. Detached garage space may be provided for a maximum of two (2) motor vehicles on any lot, with a maximum size of nine hundred (900) square feet and a maximum of twenty-five feet (25') in height. Any garage space provided in a detached garage shall be considered as part of the total garage space allowed in the principal structure as stated in Section § 14-232 (a). All vehicles shall enter said structure from either the rear yard or side yard in districts D, E, and F. All detached garages shall be located within the building envelope and rear yard. The design of the detached garage shall utilize the same architectural style and material as the principal structure. A detached garage shall mean a garage that is not attached to the primary structure or is attached to the primary structure by anything other than finished living space.

14-233 Requirements for private swimming pools

It shall be unlawful to construct or establish a private swimming pool within the City of Oak Hill as defined without having obtained a permit in the manner prescribed in this ordinance.

Any swimming pool to be constructed or substantially altered after January 1, 2011 shall be required to install a pool surface alarm and otherwise comply with T.C.A. § 68-14-801 et seq.

14-233.1 Permits

Application for the construction of a private swimming pool shall be made to the City Manager, or designee, by the owner of the property or by the contractor who will construct said swimming pool. Application shall be accompanied by a set of plans, specifications and site plans of the property. The site plans shall show the accurate location of the proposed swimming pool and discharge system on the property, together with any proposed bath-houses, cabanas or other facilities, and shall also show the location, height and type of all existing fences or walls on the property, together with the type and height of such fencing or enclosures as may be required by this ordinance to prevent, within reason, any person from gaining access beneath or through said fence when the pool is unguarded or unattended.

A fee shall be paid to the City of Oak Hill for such pool permit, which fee shall be exclusive of the permit fee required for erection of any accessory structure to be used in connection with such swimming pool.

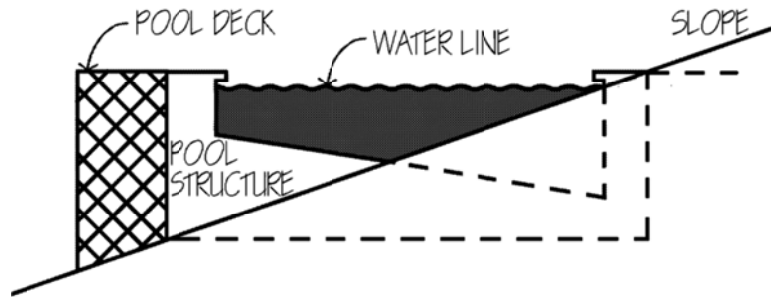
No permit for a private swimming pool shall be issued by the City Manager, or designee, until the plans, specifications and site plan have been approved by the City of Oak Hill.

Any fees prescribed by this section shall be determined, from time to time, by resolution of the Board of Commissioners.

14-233.2 Construction and maintenance

All material used in the construction of pools as herein defined shall be waterproofed and easily cleaned, and shall be such that the pool may be maintained and operated so as to be clean and sanitary at all times. The pool structure, i.e. structure holding the water, shall be constructed from permanent materials such as concrete, granite or fiberglass.

All private swimming pools having a depth of more than thirty inches (30") shall be constructed below the level of the surrounding land; Provided that this requirement shall not apply to a hot tub or spa, designed, installed and used above ground level. For properties with slopes of ten percent (10%) or greater, a portion of the pool enclosure (or structure), no greater than fifty percent (50%), may be built above the ground of the surrounding land (or slope line) as illustrated below. The pool deck is not considered part of the pool enclosure for this calculation.



The owners shall be responsible for maintaining said pool in such condition as to prevent breaks in the pool or water from the pool overflowing into adjacent public or private property.

14-233.3 *Water supply*

There shall be no physical connection between a potable public or private water supply system and such pools at a point below maximum waterline of the pool or to a re-circulating or heating system of said pool.

14-233.4 *Discharge system*

All pools hereafter constructed shall be provided with one (1) drainage outlet not to exceed three inches (3") in diameter extending from the pool to either a brook, storm sewer, lawn-sprinkling system on the premises on which the pool is located, or to an adequate drainage area approved by the City Manager, or designee, and the discharge of water from such pools shall be permitted only following approval by the proper state, county or city officials as each case requires. The City Manager or designee shall inspect the premises on which such pool is proposed to be constructed in order to determine the proper place and type of connection for discharge of the water there from. Approval shall not be given to discharge water at the curb or upon the surface of any street, or onto or across adjacent property unless the owner of the property affected shall give written consent for this to be done

and shall agree to waive any claim against the City and the property owners involved for damage to property resulting there from.

14-233.5 *Disinfection*

All private swimming pools shall be treated with chlorine (or other generally appropriate chemicals) in sufficient quantity so that there will be present in the water at all times when the pool is in use a residual of excess chlorine of not less than two hundredth (0.20) parts per million of available free chlorine.

14-233.6 *Bacteriological standards*

Not more than twenty percent (20%) of the samples of water taken from any private swimming pool, when more than twenty (20) samples have been examined, and not more than three (3) samples, when less than twenty (20) samples have been examined, shall contain more than two hundred (200) bacteria per cubic centimeter or shall show positive tests (confirmed) for chloroform in any of five (5) to ten (10) cubic-centimeter portions of water at times when the pool is for use. For the purpose of this section, any number of samplings of water on a single day shall be considered as one (1) sample. The City Manager, or designee, may make arrangements with the Davidson County Health Department to take and analyze water samples for the City of Oak Hill.

14-233.7 *Accessory buildings*

The construction and design of any pool houses, bathhouses, cabanas and other facilities shall be of the same general character and design as the principal residence or building on the property. Locker rooms, pool houses, bathhouses, cabanas, shower rooms, toilets, runways and all other physical facilities or equipment incident to the operation of any private swimming pool shall be kept in a sanitary condition at all times. Refer to § 14-232 for the development standards for accessory structures including those listed in this subsection.

14-233.8 *Location*

Private swimming pools shall be located within the building envelope and the rear yard.

14-233.9 *Fencing*

All private residential swimming pools shall be completely enclosed by a fence, wall, building, or combination thereof, provided that all such barriers shall be not less than four (4) feet in height. All gates allowing access to the pool area from the exterior of the building shall be self-latching and all such

latches shall be a minimum of four (4) feet above ground level. Gates leading directly to the area must be kept closed at all times unless premise occupants are in the vicinity of the area and can observe entry to the area through open gates. Barriers, including gates, shall be maintained in good repair at all times.

All fencing shall meet the requirements of the current building code.

14-233.10 *Lighting*

No artificial lighting shall be maintained or operated in connection with private swimming pools in such a manner as to be a nuisance or an annoyance to neighboring properties. All lighting shall comply with Section 14-241 *Lighting – dark sky regulations*. No overhead current-carrying electrical conductors shall be within fifteen feet (15') horizontally of a pool. All metal fences, enclosures or railings near or adjacent to private swimming pools, which might become electrically alive as a result of contact with broken overhead conductors or from any other cause shall be effectively grounded.

14-233.11 *Operation and maintenance*

All private swimming pools shall be maintained in a clean and sanitary condition and all equipment shall be maintained in a satisfactory operating condition during periods the pool is in use.

No private swimming pool shall be used, kept, maintained or operated in the city if such use, keeping, maintaining or operating shall be the occasion of any nuisance or shall be dangerous to life or detrimental to health.

14-233.12 *Enforcement*

Every private swimming pool as defined herein constructed or to be constructed in the City of Oak Hill shall at all times comply with the requirements of the Davidson County Board of Health. Any nuisance or hazard to health which may exist or develop in, or in consequence of, or in connection with, any such swimming pools shall be abated and removed by the owner, lessee, or occupant of the premises on which the pool is located within ten (10) days of receipt of notice from the Davidson County Board of Health or from the City Manager, or designee, of Oak Hill.

14-233.13 *Penalties and injunctive relief*

In addition to any applicable penalty provisions under state law or local ordinance, the city shall have the right to enjoin the existence or operation of any swimming pool not constructed or operated in accordance with the provisions of this ordinance.

14-234 Requirements for home occupations

Any home occupation shall meet the following requirements:

- (a) No person other than members of the family residing on the premises shall be engaged in such occupation;
- (b) The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by the occupants, and not more than ten percent (10%) of the floor area of the dwelling shall be used in the conduct of the home occupation;
- (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building;
- (d) No home occupation shall be conducted in any accessory building except that a home occupation may be conducted in a permitted detached garage, provided that the home occupation shall be fully enclosed within the garage and may only be conducted within finished space of such structure, separate from the area designated for vehicle parking and storage;
- (e) There shall be no sales on the premises in connection with such home occupation;
- (f) No traffic shall be generated that exceeds ten (10) vehicle trips per day on any lot, and any need for parking generated by the conduct of such home occupation shall be met off the right-of-way and other than in a required front yard; and
- (g) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.

14-235 Off-street parking requirements

Off-street parking space, open or enclosed, shall be provided as specified below. These shall be minimum requirements:

Residential uses –	Two (2) spaces per dwelling
Churches –	One (1) space for each three (3) seats in the main assembly hall

Parks & playgrounds – Ten (10) spaces for each acre of land devoted to recreation, plus one (1) space for each four (4) spectator seats.

Schools –

Grades 1-7 One (1) space for each four (4) students, teachers, and employees, or one (1) space for each five (5) seats in an auditorium, whichever is greater.

Grades 8-12 One (1) space for each four (4) students, teachers, and employees, or one (1) space for each four (4) seats in the auditorium or sports stadium, whichever is greater.

For the purposes of this section, each bench seat in an auditorium, stadium or church shall be measured as 18” of a bench. The Planning Commission may authorize the use of off-site parking to comply with the requirements herein provided a written agreement between both parties is provided.

14-236 Development standards for parking lots

All parking lots for uses or activities other than residential which require five (5) or more parking spaces shall meet the following development standards:

14-236.1 Design objectives

Parking lots shall be designed with careful regard given to orderly arrangement, topography, amenity of view, ease of access, and as an integral part of the overall site design. No more than twenty-five percent (25%) of the total parking spaces may be located in the front yard, and the parking lots may encroach into the front setback by no more than thirty percent (30%) of the setback requirement. The parking lots may encroach into the side and rear setbacks by no more than fifty percent (50%) of the setback requirement;

For reasons of use and appearance, it is desirable that parking lots be level or on terraces formed with the slope of the land. Changes in level between such terraces should be formed by retaining walls or landscaped banks.

Efforts shall be made to assure that a parking lot does not dominate a site or building. Such efforts may include depressing the level of the parking lot, construction of earth berms, dividing large lots into smaller sub-lots, and other similar techniques.

14-236.2 *Site plan and landscape plan requirements*

Any proposed building or conditional use that requires five (5) or more off-street parking spaces shall be required to provide a site plan and landscape plan – drawn to scale and fully dimensioned showing the location, design, and layout of such parking facilities. The landscape plan shall be included either as a part of the parking area site plan or as a separate plan for the parking area. Such landscape plan shall show any trees, shrubs, flowers, or ground covers together with names of plants; retaining walls or screens; walkways; and traffic barriers.

The site plan and landscape plan shall be attached to the required application, for the respective permit. The site plan and landscape plan must be approved by the Planning Commission prior to issuance of the respective permit.

14-236.3 *Access to the streets*

The entrances and exits of all required permitted accessory off-street parking facilities shall be located not less than fifty feet (50') from the intersection of any two (2) street right-of-way lines. All entrances and exits shall be designed based on traffic volumes and a traffic study and shall be no more than thirty (30) feet wide, excluding the corner radii. All entrances and exits shall be at least five feet (5') from any property line (except the front property line).

14-236.4 *Surfacing*

All off-street parking areas shall be surfaced with asphalt or concrete, and so constructed to provide adequate drainage. Grass parking areas may be approved by the Planning Commission provided the parking areas do not constitute more than twenty-five percent (25%) of the required parking and the grass parking areas are stabilized with a geotechnical earth stabilization material.

14-236.5 *Border barriers*

An off-street parking area shall be provided with a rail, fence, wall, earth berm, curb, or other continuous barrier of a height sufficient to retain all cars completely within the property together with appropriate landscaping, except at exit or access driveways. In addition, screening shall be provided on each side of a parking area as required below.

14-236.6 *Screening*

Surface off-street parking lots with five (5) or more parking spaces shall be screened from adjacent lots by either:

- (a) A strip at least four feet (4') wide, planted with shrubs every three feet (3') on center at least four feet (4') high at the time of planting, and which are of a type which may be expected to form a year-round dense screen at least six feet (6') high within three years (3), and one (1) tree at least six feet (6') at the time of planting every twenty-five feet (25') on center or
- (b) A wall or barrier or uniformly painted fence at least six feet (6') in height. Such wall, barrier, or fence may be opaque or perforated provided that not more than fifty percent (50%) of the fence is open.

In addition such screening:

- Shall be maintained in good condition at all times,
- Shall not be placed within fifteen feet (15') of a vehicular entrances and exits,
- Shall have no signs hung or attached thereto other than those permitted signs for parking areas as specified in this ordinance, and
- Shall not obstruct visibility of motorists at street intersections.

14-236.7 *Parking lot landscaping*

Off-street parking lots containing at least twelve (12) interior parking spaces shall contain landscape areas. The total size of such landscaped areas shall be equal to ten (10) square feet for each parking space and shall be provided within the interior of an off-street parking area. Landscape areas shall be a minimum of seventy-five (75) square feet and shall contain at least one (1) shade or flowering tree for each one hundred (100) square feet of required landscaped area. A minimum of seventy-five percent (75%) of all trees that are required to be planted within the interior of an off-street parking area shall be shade trees. The shade trees shall be located in such a manner to produce maximum overhead canopy for the vehicles. All parking lot landscaped areas shall be planted with grass, ground cover, shrubbery, or other suitable live plant material. Parking lot landscaped areas shall be designed, planted, and maintained to permit clear vision between the height of two (2) feet and eight (8) feet above grade; however, this requirement shall not apply where the lack of clear vision is not deemed to be a safety hazard. Terminal islands, interior islands and divider medians should be designed to retain maximum water in the turf areas.

14-236.8 *Parking stalls and maneuvering space*

The minimum size of each parking space shall be nine feet by eighteen feet (9' x 18').

The minimum width of driveways within the parking lot for maneuvering to and from parking stalls shall be as follows:

- 90 degree parking – 25 feet
- 60 degree parking – 20 feet
- 45 degree parking – 20 feet
- 30 degree parking – 12 feet

14-236.9 *Disabled parking space requirements*

Disabled parking spaces shall be provided for all non-residential uses in conformance with the Americans with Disabilities Act (ADA) and applicable state legislation and building codes.

14-237 Sign regulations

See Ordinance No. 10-03; Part 121 “Billboards and Signs” of the Oak Hill Municipal Code.

14-238 Regulations for steep slope areas

It is a substantiated fact that areas of steep slopes, when developed into buildings and streets, present a significant threat of landslides or soil movement. This generally occurs on slopes exceeding fifteen to twenty (15-20%) percent grades. (See: *Landslides in the Nashville, Tennessee Area-Winter 1975*, Robert A. Miller and John D. Wiethe, Tennessee Division of Geology, 1975) Oak Hill contains many such areas. Therefore, it is the policy of the City of Oak Hill to protect life and property by requiring special review procedures for construction on any area of fifteen percent (15%) or greater slopes. The applicant shall pay, as adopted by Board of Commissioners resolution, for review by the Planning Commission for steep slopes or in connection with the Radnor Lake Impact Ordinance. The following regulations shall apply:

14-238.1 *Site plan required*

No building permit shall be issued for construction on any area of 15% or greater slopes until a site plan meeting the following requirements has been approved by the Planning Commission. Said site plan shall show:

- (a) The exact size, shape, and location of the lot, and the existing drainage pattern,

- (b) The proposed location of all buildings, driveways, drainage ways, and utilities,
- (c) Contours at vertical intervals of no more than five feet (5') taken from aerial photography or field survey,
- (d) The extent of natural tree cover and vegetation,
- (e) The location of any on-site soil absorption sewage disposal systems,
- (f) The type and location of erosion control methodology,
- (g) The exact area where any natural vegetation is proposed to be removed,
- (h) The size, type, and height of all buildings proposed to be constructed.
- (i) The location and extent of colluvial soil areas as determined by soil test borings,
- (j) The engineer's stamp that prepared the plan,
- (k) Certification as to the stability of the structures and slope and compliance with sound construction methods for areas with steep slopes and landslide problems by a registered geotechnical engineer. Said engineer shall also certify such features after completion of construction prior to issuance of the certificate of occupancy,
- (l) When the Planning Commission determines that additional information is required, an additional soils or geotechnical engineer may be employed to be funded by the developer. The Planning Commission may then require additional standards for development of the lot or tract if substantiated by the facts.

14-238.2 *Development standards*

The following standards shall be used as a guide in determining the suitability of the construction proposed for the particular site in question. The engineer's certification required in § 14-238.1 above shall address these standards:

- (a) Natural vegetation shall be preserved to the maximum extent possible. Existing vegetation on slopes fifteen percent (15%) or greater shall not be removed except as approved by the Planning Commission. The Planning Commission may require replacement of removed trees up to the caliper inches removed. Any grass areas shall be sodded,

- (b) Natural drainage ways and systems shall be maintained, except that surface water may be diverted around a house or slope area to a natural drain using acceptable construction techniques,
- (c) Development shall require a minimum of two (2) acres of land per parcel. The Planning Commission may require additional acreage when justified by the soil tests and/or slope of the site and limit development to a maximum of ten percent (10%) of the lot,
- (d) Off-road vehicles shall be prohibited from all such areas and may not be operated off streets and driveways,
- (e) Operations that increase loads, reduce slope support, and cause instability of the slope shall be prohibited to the maximum extent possible which will permit reasonable development of the site. These include filling, irrigation systems, accessory buildings, and on-site soil absorption sewage disposal systems,
- (f) Where sanitary sewers are not available, any on-site sewage disposal system shall be shown on the site plan and located to avoid slide prone areas. Said system shall be approved by the County Health Department prior to the Planning Commission's review taking into account these requirements,
- (g) Erosion control measures shall be employed to prevent all soil material from leaving the site. Additionally, soil from excavation on the site shall not be deposited as fill on a potential slide area. Additionally, all aspects of the Metropolitan Nashville Storm Water Management Ordinance shall apply,
- (h) No construction, including for roads which would cut the toe of the slope shall be permitted, except as approved as a part of a soil stabilization plan submitted by a licensed geotechnical engineer on behalf of developer.

14-239 Radnor Lake Natural Area Impact Zone

The Radnor Lake State Natural Area is identified as a unique natural resource for the use and enjoyment of the citizens of Oak Hill and the larger metropolitan area and is worthy of special protection. Therefore, the Radnor Lake Natural Area Impact Zone is hereby recognized and established as a part of this ordinance. The Radnor Lake Natural Area Impact Zone ("impact zone") includes all areas determined as having a visual and/or watershed impact on the natural area and is delineated on the City Zoning Map. Said map is adopted by reference and available in the office of the City Manager. The applicant shall pay, as adopted by Board of

Commissioners resolution, for review by the Planning Commission for the Radnor Lake Impact Ordinance or in connection with the steep slope ordinance.

14-239.1 *Site plan required*

No building permit shall be issued for any lot in the impact zone until a site plan meeting the following requirements has been approved by the Planning Commission. Said site plan shall show:

- (a) The exact size, shape, and location of the lot, and the existing drainage pattern,
- (b) The proposed location of all buildings, driveways, and drainage ways,
- (c) The type and location of erosion control methodology,
- (d) Contours at vertical intervals of no more than five feet (5'),
- (e) The extent of natural tree cover and vegetation,
- (f) The location of any on-site soil absorption sewage disposal system,
- (g) The exact area where any natural vegetation is proposed to be removed,
- (h) The size, type, and height of all buildings proposed to be constructed.

14-239.2 *Development standards*

The following standards shall be used as a guide for builders, developers, property owners, and the Planning Commission in minimizing the impact on the natural area:

- (a) The clearing of trees and vegetation shall be limited to the area required for driveways, turnarounds, the house site, and a reasonable area around the house for landscaping purposes for all areas within the Radnor Lake Natural Area Impact Zone. The intent here is to limit visibility from the natural area to any structure. The Planning Commission may require replacement of removed trees up to the caliper inches removed.
- (b) The site for the house shall be situated so that ridgelines and down slopes to the natural area are avoided to the maximum extent possible,
- (c) Erosion control measures shall be employed to prevent all soil material from leaving the site. Additionally, all aspects of the Metropolitan

Nashville Storm Water Management Ordinance shall apply as appropriate,

- (d) The maximum height of any building shall not extend more than forty feet (40') above the ground level at any point.

14-239.3 *Subdivision review requirements*

Any development occurring within the Radnor Lake Impact Zone which is a subdivision as defined by the Oak Hill Subdivision Regulations shall be required to observe the following provisions, which are supplemental to the other regulations:

- (a) Road locations shall be situated so as to minimize to the maximum extent possible any visibility from the lake or trails.
- (b) Erosion control measures shall be employed to prevent all soil materials from entering the natural or man-made drainage ways which are located within the Radnor Lake watershed. This shall be required as a part of the preliminary plat approval process, and certification as to the effectiveness of the erosion control measures shall be required of the design engineer.
- (c) Cutting trees and removal of the natural vegetation shall be discouraged and limited to the subdivision roadways and required slopes. Individual lots shall be subject to the requirements in § 14-239.2 above.

14-240 Opening or extension of streets

No public street, alley, roadway or right-of-way shall be opened, extended, blockaded, accessed or otherwise changed except upon approval of the Planning Commission except as otherwise provided as a temporary measure and approved by the City Manager or designee.

14-241 Lighting – dark sky regulations

14-241.1 *Purpose*

- Permit reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night;
- Curtail and reverse any degradation of the nighttime visual environment and the night sky;
- Minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary;

- Conserve energy and resources to the greatest extent possible;
- Help protect the natural environment from the damaging effects of night lighting.

14-241.2 *Lighting Fixtures*

All outdoor lighting fixtures (luminaires) shall be installed in conformance with this Regulation and with the provisions of the Building Code, and the Electrical Code, as applicable and under permit and inspection, if such is required. Lighting attached to single-family home structures shall not exceed the height of the eave. Residential pole height restrictions can be considered to control light trespass onto adjacent properties.

14-241.3 *Lighting Standards*

- (1) **Maximum Lamp Wattage and Required Luminaire or Lamp Shielding:** All lighting installations shall be designed and installed to be fully shielded (full cutoff), except as in exceptions below, and shall have a maximum lamp wattage of one hundred (100) watts incandescent, and twenty-six (26) watts compact fluorescent for residential lighting (or approximately one thousand and six hundred (1,600) lumens).
- (2) Light shall be shielded such that the lamp itself or the lamp image is not directly visible outside the property perimeter.
- (3) All site lighting shall be shielded so that substantially all directly emitted light falls within the property line. No illumination in excess of one-half foot candle shall be permitted across the boundary of any adjacent residential property or a public right-of-way.
- (4) No illumination shall produce direct, incident or reflected light that interferes with the safe movement of motor vehicles on public streets. Lighting prohibited by this provision shall include, but not be limited to any light that may be confused with or construed as a traffic-control device.

14-241.4 *Illumination of Outdoor Sports Fields, Courts, and Performance Areas*

In addition to the requirements above, the lighting of outdoor sports fields, courts, and performance areas shall comply with the following standards:

- (1) All lighting fixtures shall be equipped with a glare control package (e.g., louvers, shields, or similar devices), and the fixtures shall be aimed so that their beams are directed and fall within the primary playing or performance area; and
- (2) The lighting system for any game or event shall not be operated when such fields, courts or areas are not being used, and in no event between the hours of 11:00 p.m. and 6:00 a.m.

14-241.5 *Lighting that is exempt from these regulations*

- (1) Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
- (2) Exit signs and other illumination required by building codes.
- (3) Lighting for stairs and ramps, as required by the building code.
- (4) Holiday and temporary lighting (less than thirty days use in any one year).
- (5) Low voltage landscape lighting, but such lighting shall be shielded in such a way as to eliminate glare and light trespass.

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**REGULATIONS GOVERNING
NONCONFORMING USES, BUILDINGS
OR STRUCTURES AND LOTS (NONCONFORMITIES)**

Nonconformities

14-242 Purpose; Classifications.

In the provisions established by this ordinance, there exist uses of land, buildings, structures, lots of record and signs that were lawfully established before this ordinance was adopted or amended, that now do not conform to its terms and requirements. The purpose and intent of this section is to regulate the continued existence of those uses, buildings, structures, lots, and signs that do not conform to the provisions of this ordinance, or any amendments thereto. Nonconformities are classified as either: (1) nonconforming uses, (2) nonconforming buildings or structures, or (3) nonconforming lots. Under certain circumstances more than one of the above classifications may apply. Nonconformities are allowed to continue, expand and reconstruct in accordance with the requirements of this section. The burden of establishing that a nonconformity lawfully exists shall be on the owner of the land on which the purported nonconformity is located.

14-243 Nonconforming Uses.

Nonconforming uses may be continued subject to the following:

- (a) A nonconforming use may be changed to a conforming use in accordance with the requirements in this ordinance, but in no event shall a nonconforming use be converted to another nonconforming use or replace an abandoned or discontinued nonconforming use. If a nonconforming use is changed to or replaced by a conforming use, the prior nonconforming use shall be prohibited.
- (b) If a nonconforming use is abandoned or discontinued for a continuous period of one (1) year, the nonconforming use shall be prohibited. Operation of only an accessory use to the principal nonconforming use during the time of abandonment or discontinuance of the nonconforming use shall not constitute continuation of the principal nonconforming use.
- (c) A nonconforming use or structure housing a nonconforming use shall not be expanded in area, extended, enlarged, or altered except as expressly permitted herein.
- (d) A nonconforming use damaged by casualty may be continued provided that the use has not been discontinued or abandoned.

14-244 Nonconforming Structures.

Nonconforming structures may be allowed to continue and remain and be used subject to the following:

- (a) Where a nonconforming structure houses a nonconforming use, the regulations for nonconforming structures and nonconforming uses shall both apply. In case of conflict, the rules for nonconforming uses shall prevail.
- (b) A nonconforming structure may continue as it existed when it became nonconforming, as long as it is maintained in its then-structural condition. Nonconforming structures may be expanded or redeveloped in accordance with subsection 14-246, Expansion, Alteration, or Major Repair, but in no event shall a nonconforming structure be expanded, or altered in a way that increases the degree of nonconformity. For example, a structure that is nonconforming with respect to a side yard setback may be expanded within the setback so long as the new portion of the structure is not built any closer to the side lot line than the existing nonconforming structure.
- (c) Governmental acquisition of a portion of a lot for public purpose that results in reduction in a lot size or that creates an encroachment of a setback line by an existing structure shall not render the structure nonconforming.
- (d) A nonconforming structure damaged by casualty shall not be restored to its condition prior to casualty, and shall meet all provisions of this ordinance, unless the necessary variances or modification of standards are obtained.

14-245 Nonconforming Lots.

No use or structure shall be established on a lot of record that does not conform to the standards established in this ordinance, except in accordance with this subsection.

- (a) This subsection shall not be construed to prohibit the development of any non-conforming lot of record prior to the effective date of this ordinance provided the development conforms to all other requirements of the ordinance.
- (b) Governmental acquisition of a portion of a lot for a public purpose that results in a reduction in lot width and/or lot area below that required by this ordinance shall not render the lot nonconforming.

14-246 Expansion, Alteration, or Major Repair.

In addition to the ability to continue, undertake minor repairs, or perform routine maintenance, nonconforming uses or structures may also add additional facilities, expand existing building footprints, or destroy and reconstruct all or a portion of the nonconformity only as permitted within this subsection. An applicant proposing to enlarge, expand, alter or make major repairs to a nonconforming use or structure shall submit a proposed site plan to the Planning Commission for review. The Planning Commission shall not approve the proposed activity unless it finds that the proposed enlargement, expansion, alteration, conversion, or major repair meets the following standards:

- (a) The nonconforming use has remained in continuous operation and has not been abandoned;
- (b) The nonconforming use is not changing to another nonconforming use;
- (c) The nonconformity is not expanding through the acquisition of additional land; and
- (d) The expanded, altered, or converted portion of the nonconforming structure does not increase the degree of nonconformity as described in subsection 14-244(b), complies with all other applicable district regulations, or has obtained the necessary variances.

14-247 Minor Repairs and Normal Maintenance.

Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, or lots are permitted, provided the minor repair or maintenance does not extend, expand, or enlarge the nonconforming use, structure, or lot. For the purposes of this subsection, “minor repair or normal maintenance” shall mean:

- (a) Maintenance of Safe Condition: Repairs necessary to maintain a nonconforming use, structure or lot in a safe condition;
- (b) Correction of Damage or Deterioration: Repairs necessary to correct any damage or deterioration to the structural soundness or interior appearance of a structure without altering the structure; and
- (c) Maintenance of Land for Safety: Maintenance of lot or site areas to protect against health hazards and to promote the safety of surrounding uses.

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ADMINISTRATION AND ENFORCEMENT

Appointment and Duties of Chief Enforcing Officer

14-248 Chief enforcing officer

The administration and enforcement of this ordinance is hereby vested with the City Manager and/or the duly appointed assistants.

14-249 Duties of City Manager

The City Manager, or designee, shall enforce this ordinance and in furtherance of said authority shall:

- (a) Issue all building permits and make and maintain records thereof,
- (b) Issue all use and occupancy permits and make and maintain records thereof,
- (c) Conduct inspections of buildings, structures, and the use of land to determine compliance with the provisions of this ordinance,
- (d) Maintain permanent and current records of this ordinance and all amendments hereto,
- (e) Provide information to the public as needed,
- (f) Receive, file, and forward all requests for conditional uses, variances, appeals, and interpretations to the Board of Zoning Appeals, Planning Commission, or Board of Commissioners as required in this ordinance.

14-250 Powers of City Manager regarding issuance of permits

The City Manager, or designee, shall have the power to grant building permits and use and occupancy permits, and make inspections of buildings or premises necessary to enforce this ordinance. It shall be unlawful for the City Manager, or designee, to approve any plan or issue any permits or use and occupancy permits for any excavation or construction until he has inspected such plans in detail and found them to conform to this ordinance.

Under no circumstances is the City Manager, or designee, permitted to make changes in this ordinance or to vary its terms and provisions.

Building and Use and Occupancy Permits

14-251 Building permits required.

- (a) No building or other structure shall be erected, moved, added to or structurally altered without a building permit issued by the City Manager, or designee.
- (b) No building permit shall be issued until the applicant agrees in writing to construct and/or make repairs to, at applicant's cost, such off-site improvements incidental thereto as the City Manager, or designee, may require. The applicant may be required to post a bond payable to the city with good and sufficient securities in such amount as the City Manager, or designee, determines will adequately cover the cost of such improvements or repairs.
- (c) A building permit shall expire eighteen (18) months from date of issuance unless construction has commenced and is being diligently pursued at such expiration date at which time an extension may be requested and granted in writing by the City Manager or designee.
- (d) No grading, filling, stripping, excavation, demolition of existing structures or other disturbance to the natural ground covering of the land shall be commenced until a permit for such work has been issued by the City Manager, or designee. If such work is done in connection with the erection of a building or other structure for which a building permit has been issued and said work is also covered by the building permit, then no additional permit is required.

14-252 Required plans for building permits

The City Manager, or designee, shall require that all applications for building permits be accompanied by one (1) paper copy and one (1) electronic copy (.pdf format) of the plans, specifications and building elevations. Building elevations, floor plans and site plans shall be provided to a scale approved by the City Manager or their designee and shall include the following information.

- (a) The actual shape, location, and dimensions of the lot, any easements, all setback lines, and the building envelope;
- (b) The shape, size, and location of all buildings or other structures to be erected, altered or moved, and of any building or other structure already on the lot;
- (c) The existing and intended use of the lot and of all such buildings or other structures upon it;

- (d) All covenants from the subdivision plan that apply to the lot shall accompany the site plan;
- (e) A description of how unstable soil conditions are to be treated in accordance with these regulations and the final subdivision plat;
- (f) Such other information as may be required to determine whether all applicable provisions of this ordinance are being met.

14-253 Use and occupancy permit required

No building or addition thereto constructed after the effective date of this ordinance, and no addition to a previously existing building shall be occupied, and no land shall be used for any purpose until a use and occupancy permit has been issued by the City Manager, or designee. No change in a use other than that of a permitted use shall be made until a use and occupancy permit has been issued.

14-254 Application for use and occupancy permit

Every application for a building permit shall be deemed to be an application for a use and occupancy permit. Every application for a use and occupancy permit for a new use of land where no building permit is required shall be made directly to the City Manager, or designee.

14-255 Issuance of use and occupancy permit

The following shall apply in the issuance of any use and occupancy permit.

- (a) Permits not to be issued: No use and occupancy permit shall be issued for any building, structure or part for the use of any land which is not in accordance with the provisions of this ordinance.
- (b) Permits for new use of land: Any new use of vacant land or different use of an existing use of land shall first obtain a use and occupancy permit for the new or different use.
- (c) Use and occupancy permits for existing buildings: Use and occupancy permits may be issued for existing buildings, structures or parts thereof, or existing uses of land, if after inspection it is found that such buildings, structures or parts thereof, or such use of land, are in conformity with the provisions of this ordinance.
- (d) Temporary use and occupancy permits: Nothing in this ordinance shall prevent the issuance of a temporary use and occupancy permit for a portion of a building or structure in process of erection or alteration,

provided that such temporary permit shall not be effective for a time period in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this ordinance.

- (e) Permits for accessory structures: Structures accessory to primary structures shall require separate permits unless included in the use and occupancy permits for the respective dwelling when shown on the site plan and when constructed at the same time as such dwelling.

14-256 Records of use and occupancy permits

A record of all use and occupancy permits issued shall be kept on file in the office of the City Manager, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

14-257 Final inspection

No use and occupancy permit for a building, structure or an addition thereto constructed after the effective date of this ordinance shall be issued until construction has been completed and the premises inspected and certified by the City Manager, or designee, to be in conformity with the plans and specifications upon which the building permit was based.

Enforcement

14-258 Remedies and enforcement

14-258.1 Penalties for violation

Any person violating any provision of this ordinance or failing to comply with any of its requirements (including violations of conditions established in connection with grants of variances or conditional uses) shall be subject to penalties under the general penalty provisions of the Oak Hill Municipal Code. Each day a violation continues shall constitute a separate violation, punishable by an additional penalty.

14-258.2 Remedies

In addition to the penalties set forth herein, if in the judgment of the City Manager the penalty provision of this ordinance is not an adequate remedy sufficient to protect the public health, safety and welfare or to ensure compliance with the ordinance, he may direct the City Attorney to initiate an action for injunctive relief, a mandamus or other appropriate legal action to prevent such violations. This subsection shall include, but not be limited to, cases where a building or other structure is proposed to be constructed or

altered or where a structure or land is or proposed to be used in violation of this ordinance.

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CHAPTER 3

BOARD OF ZONING APPEALS

SECTION

- 14-301 Creation; Appointment. Terms
- 14-302 Rules of Procedure
- 14-303 Powers
- 14-304 Appeal of Administrative Decisions
- 14-305 Application for variances, notice of hearing, fee
- 14-306 Standards for variances
- 14-307 Nonconformity does not constitute grounds for granting of a variance
- 14-308 Prohibition of use variances
- 14-309 Conditions and restrictions by the Board of Zoning Appeals
- 14-310 Authority
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14-301 Creation; Appointment. Terms.

A Board of Zoning Appeals (BZA) is hereby established in accordance with T.C.A. § 13-7-205. The board of zoning appeals shall consist of three (3) members appointed by and serving at the will of the mayor. The term of membership shall be three (3) years. Any vacancies on the BZA shall be filled by appointment of the Mayor for the unexpired term.

14-302 Rules of Procedure.

The Board of Zoning Appeals shall elect a chairman and vice-chairman who shall preside in the chairman's absence. All meetings of the board shall be open to the public. The board shall adopt bylaws and rules of procedure consistent with this ordinance. The City shall attempt to notify all property owners within two-hundred and fifty feet (250') of the boundaries of the subject property at least ten (10) days prior to the hearing at which the application will be considered. The presence of two (2) members of the board shall constitute a quorum and the concurring vote of two

(2) members of the board shall be necessary to reverse or modify any order, requirement or decision of the building inspector or to decide in favor of the appellant on any matter upon which the board is required to pass and to that end the board shall have all the powers of the officer from whom the appeal is taken and it may issue or direct the issuance of a permit.

14-303 Powers.

The Board of Zoning Appeals shall have the following powers:

- (1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of this chapter.
- (2) *Conditional use permits and review.* To hear and decide applications for conditional use permits (special exceptions) upon which the board of zoning appeals is specifically authorized to pass and to review.
- (3) *Variances.* To hear and decide applications for variance from the terms of this chapter, but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property which at the time of the adoption of the provisions of this chapter was a lot of record; or where by reason of exceptional topographic conditions or other extraordinary or exceptional situations or condition of a piece of property the strict application of the provisions of this chapter would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without detriment to the public good and the intent and purpose of this chapter. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning. In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this chapter. Before any variance is granted it shall be shown that circumstances are attached to the property which does not generally apply to other property in the neighborhood.
- (4) *Boundary lines.* To interpret the zoning map and decide disputed questions of zoning district boundaries lines.

14-304 Appeal of Administrative Decisions.

- (a) This subsection sets out the procedure to follow when a person claims to have been aggrieved or affected by an administrative decision of the city manager, building inspector or other administrative official. Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by an administrative official of the city charged with the administration or enforcement of this ordinance.
- (b) An Appeal pursuant to this subsection shall be initiated by filing a written appeal of the administrative decision or determination within thirty (30) days of the date of the order, decision, determination, or interpretation with the city manager. Upon receiving the written Appeal of the administrative decision or determination, the city manager shall gather and transmit to the BZA the written Appeal and all papers, documents, and other materials relating to the order, decision, determination, or interpretation that is appealed to the BZA. This material shall constitute the record of the Appeal. The BZA shall review and make a decision on an Appeal in accordance with this ordinance, state law, and the BZA Bylaws.
- (c) An order, decision, determination, or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural or substantive requirements of this ordinance, state law, or the federal or state constitutions.

Variances

14-305 Application for variances, notice of hearing, fee.

Prior to the submittal of the written variance application, the property owner or designated agent shall meet with the City Manager, or designee, to confirm the required application information and exhibits. A written application for a variance shall be filed with the Board of Zoning Appeals by the property owner or designated agent on forms provided by the executive secretary, and the application shall contain information and exhibits as determined at the pre-application meeting. No more than fifteen (15) business days after the filing of the application, the applicant or designated agent will be notified of the completeness of the application and related information and exhibits. Upon determination of completeness of the application and related information and exhibits, the application will be reviewed by the City Manager, or designee. Within thirty (30) business days of the completeness determination, the City Manager, or designee, shall prepare a report of the findings of the review and schedule the application for the next available Board of Zoning Appeals hearing, unless otherwise withdrawn or postponed by written request by the applicant. The City Manager, or designee, shall publish the notice of the hearing of the Board of Appeals as required by this ordinance.

A fee, adopted by Board of Commissioners' resolution, payable to the city shall be charged to cover review and processing of each application for a variance, except that the fee may be waived by the City Manager or Board of Commissioners for a governmental agency.

14-306 Standards for variances.

The Board of Zoning Appeals shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

- (a) The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out must be stated;
- (b) The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district;
- (c) The variance will not authorize activities in a zone district other than those permitted by this ordinance;
- (d) Financial returns only shall not be considered as a basis for granting a variance;

- (e) The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this ordinance;
- (f) That granting the variance requested will not confer on the applicant any special privilege that is denied to other lands, structures, or buildings in the same districts;
- (g) The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- (h) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located; and
- (i) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

14-307 Nonconformity does not constitute grounds for granting of a variance

Nonconforming uses of lands, structures, or buildings in the same or other districts shall not be considered grounds for the issuance of a variance.

14-308 Prohibition of use variances

Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

14-309 Conditions and restrictions by the Board of Zoning Appeals

The Board of Zoning Appeals may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the provisions set out above to reduce or minimize the injurious effect to such variation upon surrounding property and better carry out the general intent of this ordinance. The Board of Zoning Appeals may establish expiration dates as a condition or as a part of the variances. Unless specifically established by the Board of Zoning Appeals, all variances for proposed construction shall expire within one (1) year of approval, unless construction is commenced and is being diligently pursued at such expiration date.

Conditional Use Permits

14-310 Authority.

The Board of Zoning Appeals (“BZA”) may hear and decide, in accordance with the provisions of this ordinance, requests for conditional use permits. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by TCA § 13-7-206.

14-311 Application for conditional use permit; Fee

Application for a conditional use permit shall be made by the property owner or his designated agent and filed in writing with the City Manager or designee on forms provided by the City. All applications shall contain such information and exhibits as may be required for a building permit under § 14-251 et seq, and as is otherwise required for a particular use in this ordinance. Not more than sixty (60) days after filing such application, a hearing shall be held on the application, unless, otherwise, withdrawn or postponed upon written request by the applicant. The City shall publish notice of the hearing as required by this ordinance. Applicants for conditional use permits shall pay the City a fee, in an amount to be determined by resolution of the Board of Commissioners, to defray the cost of review, processing and hearing each application, except that the fee may be waived by the Board of Commissioners for applications submitted by any government agency.

14-312 Requirements for Conditional Use Permit.

General requirements are hereby established which shall apply to all applications for conditional use permits. In addition, certain specific standards listed shall apply for the different allowable uses. The BZA may impose such other conditions and restrictions upon the premises benefitted by a conditional use permit as may be necessary to reduce or minimize the injurious effect of such conditional uses upon and ensure compatibility with surrounding property and to protect the public health, safety and welfare. The BZA may establish dates for the expiration of any conditional use permit as a condition of approval.

14-313 General requirements.

A conditional use permit shall be granted by the BZA only after the applicant has demonstrated, and the BZA has determined, that all of the following required standards are met:

- (a) The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this ordinance. Any accessory use to a conditional use must receive express approval by the BZA;

- (b) The proposed use is so located, designed, and proposed to be operated so as not to endanger the public health, safety and welfare; and
- (c) The proposed use is necessary for the public convenience.

14-314 Specific standards for public schools.

- (a) No such facilities shall be permitted unless the lot upon which it is to be located contains the minimum recommended acreage by the State Department of Education, but in no case shall the lot contain less than six (6) acres. Said lot shall have a minimum of two hundred eighty feet (280') of frontage on a public right-of-way;
- (b) The traffic generated by such facility can be safely accommodated along the streets giving access to the site. The applicant shall be required to submit a traffic impact study, prepared by a licensed traffic engineer;
- (c) The location and design of such facilities shall not have an adverse effect upon surrounding properties;
- (d) The off-street parking requirements set forth in §§ 14-235 and 14-236 can be met. No more than twenty-five percent (25%) of the total parking spaces may be located in the front yard, and the parking lots may encroach into the front setback by no more than thirty percent (30%) of the setback requirement. The parking lots may encroach into the side and rear setbacks by no more than fifty percent (50%) of the setback requirement;
- (e) All front, side, and rear yards shall be equal to two (2) times the yard requirements for the zoning district in which the public school is to be located;
 - i. The height of all buildings shall not exceed sixty feet (60'); steeples, copulas, and similar architectural treatments may exceed the height of the building by no more than fifty percent (50%) of the height of the primary structure.
 - ii. The parking lot for such facilities shall not exceed twenty-five percent (25%) of the total lot area to be utilized.

14-315 Specific standards for private schools

The Board of Commissioners of Oak Hill have determined as a matter of policy that a private school does not make the same contribution to public welfare and are not

regulated in the same manner as public schools, and therefore, no private school shall be permitted unless it meets the following requirements in addition to the requirements for public schools and other conditional uses:

- (a) Said school is a nonprofit, educational school holding a general welfare charter from the State of Tennessee;
- (b) Said school is held to be exempt from payment of taxes to the federal government, State of Tennessee, Davidson County and Oak Hill;
- (c) Said school is a grade school divided into successive grades and is similar to and conducted in the manner of a public grade school. However, pre-kindergarten or nursery schools may be permitted as an accessory use when said school meets the requirements of this ordinance;
- (d) Said school is constructed, conducted, maintained and operated in accordance with the requirements of the ordinance as to construction, maintenance, operation, health and safety provisions, etc.;
- (e) No private school conducted as a riding school, swimming school, art school, boarding school, trade school, G-I school, or school of any other kind other than a grade school of the nature herein defined and conducted similar a public school shall be permitted to exist or operate in Oak Hill.
- (f) The site on which the school is located contains at least two (2) acres for each fifty (50) pupils of anticipated enrollment provided that the property contain a minimum of six (6) acres of land for any combination of grades one (1) through eight (8), and eight (8) acres for any combination of grades seven (7) through twelve (12), and ten (10) acres for any twelve (12) grades school. . Said site shall have a minimum of two hundred eighty feet (280') of frontage on a public right-of-way of a major street as shown on the official Street Classification Plan;
- (g) The off-street parking requirements set forth in §§ 14-235 and 14-236 can be met. No more than twenty-five percent (25%) of the total parking spaces may be located in the front yard, and the parking lots may encroach into the front setback by no more than thirty percent (30%) of the setback requirement. The parking lots may encroach into the side and rear setbacks by no more than fifty percent (50%) of the setback requirement;

- (h) All front, side, and rear yards shall be equal to two (2) times the yard requirements for the zoning district in which the public school is to be located;
- (i) The school and all facilities are connected to the public sewer system;
- (j) All plans and specifications for construction, establishment and operation of a private school shall be approved by the City Manager or designee as a part of the conditional use permit and said plans shall show future expansion, and a map showing the proposed location of the building(s), and the City Manager or designee must approve all preliminary and final plans and specifications, and any change orders or alterations which affect space allotment, structure or health and safety. Where new facilities are to be constructed, the City Manager, or designee shall make such inspection as may be deemed necessary during construction of buildings to determine whether school facilities are being constructed in conformance with the approved final plans and building codes;
- (k) All buildings shall meet all the requirements and standards for construction, repair and equipment of public school buildings and operation of same established by the Tennessee State Board of Education governing new sites, new building, major repairs and equipment for public schools, including any subsequent amendments to said regulations, and said requirements, rules and regulations are referred to and made a part of this ordinance as fully as though copied herein.
- (l) The parking lot for such facilities shall not exceed twenty-five percent (25%) of the total lot area to be utilized.

14-316 Specific standards for churches

- (a) Churches shall not be permitted unless the lot upon which it is to be located contains a minimum of six (6) acres. Said lot shall have a minimum of two hundred eighty feet (280') of frontage on a public right-of-way;
- (b) The location, size, and design of the proposed church facilities shall be situated so that they are compatible with the surrounding area, thus reducing the impact upon such area; all structures shall be required to provide a front, side, and rear yard equivalent to two (2) times the requirement of the zoning district in which the church is proposed;

- (c) Church facilities shall be allowed to be located only on major streets as shown on the official Street Classification Plan;
- (d) All bulk regulations of the district shall be met. Provided, the height of all structures shall not exceed sixty feet (60'). Provided further, steeples, copulas, and similar architectural treatments may exceed the height of the building by no more than fifty percent (50%) of the height of the primary structure. Provided further, that for any church situated upon a lot of at least thirty (30) acres, the following requirements shall apply to each church structure situated more than two-hundred fifty feet (250') from the nearest lot line. The height of steeples, copulas, and similar architectural treatments shall not exceed one hundred twenty feet (120') above the roof of the structure upon which such treatments are built.
- (e) The off-street parking requirements set forth in §§ 14-235 and 14-236 can be met. No more than twenty-five percent (25%) of the total parking spaces may be located in the front yard, and the parking lots may encroach into the front setback by no more than thirty percent (30%) of the yard requirement. The parking lots may encroach into the side and rear setback by no more than fifty percent (50%) of the setback requirement;
- (f) The parking lot for such facilities shall not exceed twenty-five percent (25%) of the total lot area to be utilized.

14-317 Specific standards for public facilities, including public utility facilities.

All public facilities, including public utility facilities must comply with the following requirements:

- (a) Such facilities are for a public service corporation or for public utility purposes which are necessary for the public necessity, convenience, and welfare;
- (b) Such facilities are located in such a manner that will protect the character of the neighborhood where it is to be situated.
- (c) All bulk regulations of the district shall be met;
- (d) The off-street parking requirements of this ordinance shall apply, unless otherwise approved by the Board of Zoning Appeals;
- (e) The off-street parking requirements set forth in §§ 14-235 and 14-236 can be met. No more than twenty-five percent (25%) of the total parking spaces may be located in the front yard, and the parking lots

may encroach into the front yard by no more than thirty percent (30%) of the yard requirement. The parking lots may encroach into the side and rear yards by no more than fifty percent (50%) of the yard requirement.

14-317A Specific standards for non-profit historic properties.

(a) *Uses.* In addition to existing and agricultural uses permitted by applicable state and local law, properties meeting the requirements and standards set out below may be approved as conditional uses by the Board of Zoning Appeals (“BZA”) for some or all the following specific non-residential uses:

i. **Educational and Cultural.** The property may be used for educational and cultural purposes such as field trips, historical tours, seminars, classes, music events and workshops, summer camps, lectures, artists' workshops and exhibits, subject to such conditions as the BZA may impose, including but not limited to, class/participant size(s), days/hours of operation, parking requirements, and traffic control.

(ii) **Special Events.**

(A) The property may be used for weddings, private parties, meetings and retreats, provided that there shall be no overnight accommodations to guests. The property may also be used from time to time for public and private opportunities for visits and tours of the property and house and for special events such as garden tours and seasonal and holiday events. All such special events shall be subject to such conditions as the BZA may impose including, but not limited to, the frequency of events, event size, days/hours of events, parking, and traffic control.

(B) Incidental to and as part of up to twelve (12) such special events annually, artisans may sell arts and crafts or Local Participating Farmers may sell agricultural products. The total number of such artisans or Local Participating Farmers selling products shall not exceed 13 at any such special event. Local Participating Farmers shall mean those who farm on and are selling agricultural products grown or produced on property located in Davidson County or Williamson County or on property in Tennessee preserved through conservation easements established by the Tennessee non-profit corporation that owns and operates the subject property as provided for in subsection (b) herein.

(iii) **Photography and Film Sets.** The property may be used for photo and video shoots, including portrait photography, music videos and films, subject to such conditions as the BZA may impose, including, but not

limited to days/hours that such use is permitted, and additional noise, lighting and/or parking restrictions.

- (iv) **Office and other Incidental Uses.** The property may be used for office space for the property owner only and for other uses clearly incidental to the above, subject to such conditions as the BZA may impose, including, but not limited to, days/hours of operation, additional parking, and traffic control.

(b) *Requirements.* If at any time a property receiving a conditional use permit to operate as a non-profit historic property pursuant to this Section fails to meet any of the following requirements or any conditions imposed by the Board of Zoning Appeals, all uses of the property not otherwise allowable by right shall immediately cease.

- (i) Said property shall be owned and operated by a Tennessee non-profit corporation and shall qualify for tax exempt status under section 501(c)(3) of the Internal Revenue Code;
- (ii) Said property shall be at least fifty (50) acres in size, which may not be subdivided;
- (iii) Said property shall be listed on the National Register of Historic Places;
- (iv) Said property shall be located on and have safe, primary access to a major thoroughfare; and,
- (v) All net revenue generated by the non-profit corporation from use of the property shall be used exclusively for the maintenance, management, upkeep, repair and continued operation of the property.

(c) *Impact of Parking on Property.* The property shall be used and maintained in a manner intended to regulate the impact of parking on the property. The maximum number of visitors on the property for one event is five hundred (500), except for the “Excluded Events”. As used herein, “Excluded Events” shall be events held no more than three (3) times per calendar year and may include more than five hundred (500) visitors but no more than 2,000 visitors. Property owner must provide at least twenty-one (21) days prior notice to the City of “Excluded Events”, such notice to include at a minimum, the date of the event, a brief description of the event, the anticipated number of visitors the duration of the event, and a parking/entrance/egress plan.

(d) *Amplified Sound.* There shall be no amplified sound coming from the property and audible outside the boundary lines of the property after 10:00 p.m. (Nashville time).

(e) *Special Provisions Regarding Office Use.* Any permitted office use shall be limited to offices within existing structures on the property.

14-318 Site plans for conditional uses

Prior to submittal of a conditional use permit application and site plan, the property owner or designated agent shall meet with the City Manager, or designee, for a pre-application meeting to determine the required information and graphics for the site plan including any additional studies which may be required such as a traffic impact study, photometric plan, and/or a specific study to effectively evaluate the potential impacts of the proposed structures and use.

All applications for a conditional use permit shall be accompanied by a site plan and any additional information that may be requested during pre-application meeting with sufficient copies for staff and the Board of Zoning Appeals (BZA). Such site plan shall be a scale drawing that shows the actual boundary of the site, the shape, size and location of all buildings proposed to be built, the general layout of the parking and driveway areas, the general means proposed for disposal of storm water from the site, the limits of any floodplain, architectural elevations sufficiently detailed to indicate the appearance and scale of the building. The applicant shall also submit a narrative description of the project to enable the BZA to evaluate the potential impact of operations of the facility upon the area in which it is to be located. The BZA may approve the conditional use of the plan as submitted, reject the request for reasons stated, require additional information to enable the BZA to make an informed decision, or include additional requirements in order to receive approval.

After review and approval by the BZA, a site plan meeting the requirements listed below shall be submitted to the Planning Commission for review and approval or denial. The approval of any site plan for a conditional use shall lapse after a period of six (6) months after the date of the action by the Planning Commission if construction has not been initiated, and new submission will be required meeting all zoning requirements including amendments since the original approval. The City Manager, or designee, may grant up to two (2), three (3) month extensions.

All site plans shall be prepared and stamped by registrants of the State of Tennessee who are licensed to practice the particular discipline being prepared (e.g. site layout and drainage by civil engineers, boundary surveys by surveyors, landscape plans by landscape architects). Such site plans shall be accompanied by a "site plan checklist" which is available at the city offices.

All site plans shall indicate:

- (a) The actual shape, location, bearings and dimensions of the lot;

- (b) The shape, size and location of all buildings or other structures to be erected, constructed, altered or moved, and of any building or other structures already on the lot;
- (c) Preliminary, then detailed building plans showing front, rear and side elevations including materials proposed to be used on the building and the percentage of each material used on each elevation;
- (d) Preliminary, then detailed landscaping plans which shall include trees, shrubs, and flowering plants with species, quantities and sizes clearly indicated; also, a lighting plan which shows the photometric data will be provided;
- (e) Existing and proposed contours field run at no greater than two foot (2') intervals based on sea level; cut/fill data should be shown on a chart;
- (f) Location, layout and design of total impervious area square footage for all driveways, walks and parking facilities;
- (g) Locations, use and type of turf of all open space;
- (h) Ground coverage of all buildings, floor area of all floors and building heights;
- (i) Location and sizes of all existing and proposed utilities (storm sewers, sanitary sewers, water mains and fire hydrants);
- (j) Proposed means of surface drainage including spot elevations to assure positive drainage, drainage calculations for the site, capacities of downstream drainage structures that will be affected and storm water detention facilities as needed. (Analyses should be based on the 25-year storm with consideration also being given to the capability of the proposed systems to control the two-year storm);
- (k) Location, type and details of all signs, and any proposed changes;
- (l) Location of all easements, rights-of-way and building and parking setbacks;
- (m) For any site subject to flooding, the limits of floodway and flood fringe areas, the regulatory flood elevation, the regulatory flood protections elevation and the minimum first floor elevation;
- (n) Location and type of temporary erosion control measures;

- (o) Detailed drawings of headwalls, end wall, ditch sections, curbs and pavement sections, retaining walls, and other site features;
- (p) A site data table indicating square footage and percentages of the total area of the building footprint, parking areas, driveways and sidewalks;
- (q) For churches and schools, the site plan shall also indicate any future potential buildings and facilities. This may be represented as a conceptual master plan.

Prior to the issuance of any building permit of any building approved by the conditional use permit, a letter of credit, bond or cash deposit, whichever is required by the city, shall be posted to cover the cost of installing all landscape materials and all site drainage features. Said bond, letter of credit or cash deposit shall be released upon completion of the improvements, final inspection and issuance of the use and occupancy permit. In the event of default on the project or a stop of construction for a period of time in excess of forty-five (45) days, the City Manager, or designee, may, after notification to the owner and general contractor, utilize the proceeds of the bond, letter of credit or cash deposit to restore the disturbed area of the site to an acceptable condition.

No use and occupancy permit for a building, structure or an addition thereof, as approved in a conditional use permit, constructed after the effective date of this amendment, shall be issued until construction of the building and on-site improvements have been completed and inspected by the City Manager, or designee, and any building inspectors, as appropriate. Additionally, the licensed professional that prepared the plans shall certify to the City Manager, or designee, that the final construction including all site improvements is in conformity with the plans and specifications which were approved and upon which the conditional use permit was based.

If any section, clause, provision, or portion of this ordinance is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion, of this ordinance which is not invalid or unconstitutional.

In case of conflict between this ordinance or any part thereof and the whole or part of any existing or future ordinance of the City of Oak Hill, the most restrictive shall apply in all cases.

14-319 Traffic impact analysis requirements

A proposed conditional use which is required by the City Manager, or designee, to submit a traffic impact analysis must adhere to the following:

A traffic impact analysis methodology meeting with the City Manager, or designee, to determine the traffic impact analysis requirements necessary based upon the scope of the proposed project. The traffic impact analysis requirements may be modified by the City Manager, or designee. At a minimum, the traffic impact analysis will include a project address or project location description, a property control or folio identification number, the project acreage, a list of specific uses, densities, and intensities, any proposed phasing, the owner and agent contact information, and the traffic impact analysis as required:

- (a) The traffic impact analysis shall be certified by a registered professional engineer.
- (b) The traffic impact analysis shall include the following minimum analysis as well as any additional analysis identified at the methodology meeting:
 - (1) Trip generation: AM/PM peak hour analysis, internalization, and pass-by capture rates;
 - (2) Trip assignment: may be determined utilizing accepted professional traffic engineering trip assignment, as approved by the City Manager or designee;
 - (3) Access analysis including driveways, turn lanes, and signalized intersections within a half (1/2) mile of the project location;
 - (4) Analysis of all signalized intersections on links that provide direct access to the project site and which have an impact of at least two percent (2%) of the level of service.
 - (5) Other analysis techniques proposed must be substantiated by the applicant and found by the City Manager, or designee, to be acceptable.
 - (6) Peak trip generation and pass-by assumptions may be adjusted if the assumptions are submitted by the applicant and found by the City Manager, or designee, to be acceptable. The applicant may demonstrate that effective measures will be employed that will cause the peak traffic generation and pass-by characteristics of the proposed development to be significantly different than the normal project of the same type on which the peak trip generation and pass-by factors are based.
- (c) A development's impact on the roadway system shall be determined by using the trip generation rates set forth in the most recent edition of

Trip Generation published by the Institute of Transportation Engineers (ITE), Washington, D.C., or other professionally accepted trip generation rates. It shall include evaluation for its direct effect on an arterial or collector roadway adjacent to the point(s) of project access.

- (d) For roadways where an applicable traffic count does not exist or a recent count has not been conducted within one year, the applicant must provide a count certified by a registered professional engineer at the applicant's expense.

14-320 Approval.

If the BZA determines that all applicable requirements of a conditional use permit are met, it shall approve the conditional use permit subject to any additional reasonable restrictions imposed by the BZA as necessary to protect the public health, safety and welfare. If an application for a conditional use permit is approved by the BZA, the applicant may then submit the site plan for review by the Planning Commission within one (1) year of the date of approval by the BZA. Revisions to the site plan not affecting the use of the property, or any conditions imposed by the BZA, may be approved by the Planning Commission.

14-321 Review; fee.

Beginning January 1, 2012 and every three (3) years thereafter as requested by the City Manager, the property owner or designated agent shall submit a letter to the City Manager, or designee, confirming their compliance with the approved Conditional Use Permit along with the permit review fee payable to the City. The review letter shall indicate any authorized or unauthorized actions by the property owner during the previous three years based on the conditions of the current conditional use permit. Upon receipt of the letter, City Manager or designee will inspect the property, facilities and activities for compliance with the current permit. The City Manager will present the findings to the BZA at the next regularly scheduled meeting. A fee, adopted by Board of Commissioners resolution, payable to the city shall be charged to cover the review process of each conditional use permit, except that the fee may be waived by the City Manager or Board of Commissioners for a governmental agency. The application fee paid for the conditional use permit shall constitute the permit fee for the first three years.

14-322 Modifications.

A conditional use permit may not be transferred to another owner and no changes or modifications made to the use of the property subject to the conditional use permit without review and approval of the BZA in the same manner as set forth herein for the initial approval. However, the site plan changes not affecting the use

of the property shall be reviewed by the Planning Commission and shall not require BZA approval.

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CHAPTER 6

FILMING AND STAGING

SECTION

14-601. Definitions.

14-602. Permit Required for Commercial Filming; Use of City Streets and Sidewalks.

14-603. Application.

14-604. Fees; Reimbursement Costs.

14-605. Permit Requirements.

14-606. General Permit Conditions; Violations; Revocation of Permit.

14-607. Insurance.

14-601. Definitions.

- (1) "Filming," as used in this chapter, means and includes all activity related to staging or shooting motion pictures, television shows or programs, commercials, video podcasts, still photography or other visual reproduction technology now known or hereafter created. For purposes of this chapter, filming shall not include the above activities when conducted in a spontaneous or unplanned manner for the purpose of the reporting of news or on current or public events. Unless otherwise expressly provided for herein, filming shall include commercial filming.
- (2) "Commercial filming," as used in this chapter means and includes all activity attendant to filming any entertainment or advertising programs for a commercial purpose for any media, not including charitable or student films, now known or hereafter created.
- (3) "Charitable or student filming," as used in this chapter, means any filming by a nonprofit organization, which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization or is an accredited educational institution, and for which no person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes or photos.
- (4) "Off-site staging," as used in this chapter, means the use of a property other than the property where the actual filming will occur, to stage vehicles or equipment or for any other purpose associated with filming or making commercial films.
- (5) "Private Property" as used in this chapter, means any property not owned by the City or another public entity on which filming or making commercial films would not interfere with public right of way, access or safety.

14-602. Permit Required for Commercial Filming; Use of City Streets and Sidewalks.

- (a) No person shall conduct or engage in commercial filming on any property within the City without first obtaining a permit as provided herein.
- (b) No person shall use any City street, alley, sidewalk, parkway or other public property owned or controlled by the City for commercial filming and no person shall use any City street, alley or sidewalk for filming in any way which interferes with or disrupts the public's use of such street, alley or sidewalk, without first obtaining a permit as provided herein from the City Manager or his/her designee

14-603. Application.

- (a) Any person or entity seeking a permit for the temporary use of property for filming or commercial filming shall be required to submit an application for such permit with the City Manager or his designee with sufficient advance notice to allow for the appropriate review of the application. If the filming is to take place on public property or if off-site staging is required, such application must be submitted not less than five (5) business days in advance of the proposed filming. The permittee shall also be required to provide proof of notice of such application and/or a "good neighbor letter" to all adjoining property owners of the film site or any off-site staging area property.
- (b) Each application shall include the following information:
 - (1) The name of the property owner and/or the owner's designee, the address and telephone number of the places at which the filming is to be conducted including detailed listing of any public property or streets that may be utilized;
 - (2) The proposed inclusive hours and dates that filming will take place;
 - (3) A general statement of the character or nature of the proposed filming (ex. motion picture, television show, commercial, etc.), including a detailed description of any activities that could potentially affect adjoining properties;
 - (4) The name, address and telephone number of the person or persons in charge of such filming;
 - (5) The number of personnel to be involved in the filming within the city;
 - (6) A list of major equipment to be used, including but not limited to trucks, buses, limousines, generators, honey wagons, lights, booms, cranes and cameras;
 - (7) A staging plan illustrating the placement of all sets and props and all equipment, including generators, and cameras (including booms and cranes);

- (8) The address and property owner of any property proposed to be used for off-site staging and a staging plan for such property use, including the proposed route to be used for commuting between the film site and off-site staging property; and,
 - (9) Such additional information as the City Manager or his/her designee may reasonably request.
- (c) The permit application shall be in a form the City Manager or his/her designee may reasonably require. The City Manager or his/her designee may refer the application to such appropriate City officials or contractors as are directly impacted by the application and as he/she deems necessary from the nature of the application for review, evaluation, investigation and recommendations by the departments regarding approval or disapproval of the application. The City Manager or his/her designee shall act upon the application in a timely fashion and shall approve or disapprove the application or request additional information within a period of not greater than five (5) business days following the date of filing of the application. The applicant shall be immediately notified of the action of approval, denial or revocation of the permit application or permit issued under this chapter.

14-604 Fees; Reimbursement of Costs.

- (a) An application fee in the amount of \$50 shall be required for each application for a temporary filming permit.
- (b) A permit fee in the amount of \$250 shall be required for each temporary filming permit for commercial filming and staging activities conducted exclusively on private property.
- (c) A permit fee in the amount of \$2,500 shall apply to each application and renewal application for commercial filming and staging activities that involve the use of any public road, sidewalks or other public property.
- (d) A renewal fee for temporary filming permits and staging activities conducted exclusively on private property in the amount \$100 shall apply when there are no substantial changes to the filming and staging activities. Any changes to the activities will require a new application and permit before such activities may be conducted.
- (e) The above fees are intended to cover the City's administrative costs in reviewing the applications and monitoring the activities to insure that there is no adverse affect on neighboring or public properties.
- (f) No application fee, location/lease fee(s) shall be required of charitable or student films or for filming conducted on behalf of the City or any City departments or divisions.
- (g) Each permittee filming or making commercial films under this chapter shall reimburse the City for all actual and reasonable costs incurred by City, the amount of which shall be determined by the City Manager or his/her designee, for City personnel or equipment provided to or for the permittee

for the purpose of assisting or providing security, protection, public safety or other City services to or for the permittee or members of the general public for activities conducted under the permit. In the discretion of the City Manager or his/her designee, permittees may be required to submit a deposit of estimated administrative and/or public safety costs relating to the activities conducted under the permit at the time of issuance thereof. In the alternative, the City Manager or his/her designee may determine that permittee is responsible for providing such personnel or equipment for the above purposes.

14-605 Permit Requirements.

- (a) The City Manager or his/her designee may issue a permit under this chapter if it is determined that the following criteria have been met:
 - (1) The proposed use will not unreasonably interfere with traffic or pedestrian movement, or unreasonably interfere with or endanger the public peace or rights of nearby residents to the quiet, peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;
 - (2) The proposed use will not unduly impede, obstruct or interfere with the operation of emergency vehicles or equipment in or through the permit area, or adversely affect the City's ability to perform municipal functions or furnish City services in the vicinity of the permitted area;
 - (3) The proposed use will not constitute a fire or safety hazard and all proper safety precautions will be taken as is reasonably necessary to protect the public peace, health, safety or general welfare; and,
 - (4) All other requirements of this chapter have been met.
- (b) The City Manager or his/her designee shall deny the permit if the conditions of this chapter and all applicable laws and regulations have not been met or if the application contains incomplete or false information.
- (c) The City Manager or his/her designee may immediately revoke or suspend a permit which has been granted, if the conditions of this chapter and all applicable laws and regulations are no longer being met, if the information supplied by the applicant becomes, or is determined to be, false or incomplete, or if any substantial change in circumstances results in the proposed use becoming detrimental to the public peace, health, safety or general welfare.
- (d) The City Manager or his/her designee shall condition the issuance of a permit on such terms and conditions regarding the time, place and manner of utilizing the City streets or other public property, or the use of private property, which he/she determines are necessary and appropriate under the circumstances to protect the public health, safety and welfare of the residents of the City, including to protect the quiet and peaceful enjoyment of their property..

- (e) Upon reasonable notice and a showing of good cause by the applicant, the City Manager or his/her designee is authorized to change the conditions under which a permit has been issued, provided that the requirements of this chapter are met and the City can undertake all necessary administrative review within the time requested.
- (f) The issuance of a permit hereunder authorizes filming as set forth in the permit; however, nothing herein shall be construed as a waiver of any other ordinance provisions, including but not including, noise restrictions, light limitations, parking restrictions, etc.
- (g) Prior and as a condition precedent to the granting of a permit under this chapter each applicant shall agree to indemnify, defend and hold the City, its authorized agents, officers, representatives and employees harmless from and against any and all losses, damages claims, causes of action, costs, liabilities, penalties, judgments and expenses, including, without limitation, defense costs and reasonable legal fees, resulting from any and all claims or damage of any nature, including any accident, loss or damage to persons or property which the City may incur and which arise from or relate to any activity conducted by permittee or any of its agents, employees, representatives, contractors or consultants in connection with the rights granted in the permit or under this chapter. The form of the indemnification agreement shall be as determined by the City Attorney.
- (h) Except as provided herein, each applicant must comply with all City, State and federal laws, regulations and ordinances, and must obtain all necessary permits and licenses as a precondition for the commencement of filming hereunder. Thereafter, the permittee shall remain in full compliance with all such City, State and federal laws, regulations and ordinances, permits and licenses throughout the filming or making Commercial films.

14-606. General Permit Conditions; Violations; Revocation of Permit.

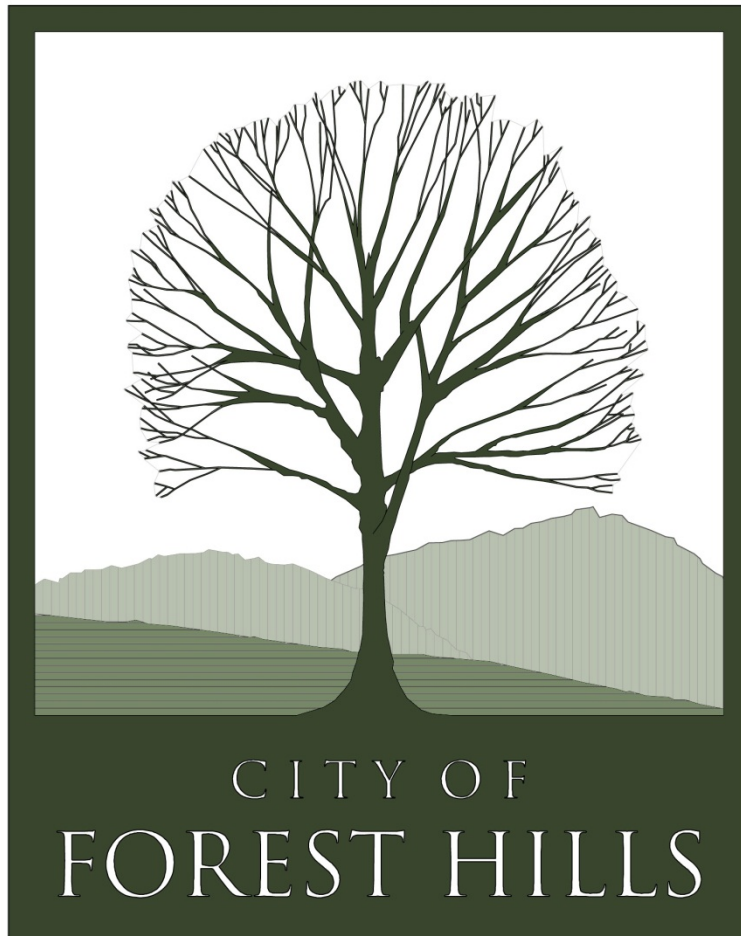
- (a) Without limiting the City Manager's authority and discretion to impose additional conditions upon any permittee, all applicants granted a permit pursuant to this chapter shall comply with all of the following conditions:
 - (1) Filming, including staging activities may only occur between the hours of 6:00 a.m. and Midnight, Monday through Saturday, provided that the actual shooting or video recording may only occur between the hours of 8:00 a.m. and 10:00 p.m. on such days. . No filming shall be conducted on Holidays officially observed by the City.
 - (2) Filming permitted may only occur for ten (10) consecutive days, provided however, that nothing herein shall prohibit an applicant from applying for a permit renewal or a new permit. Filming may only be approved for the same property for not more than forty-five (45) days during any calendar year.

- (3) Unless expressly authorized, no vehicles or equipment may be parked on City streets, rights-of-way or public property owned by the City. Unless expressly permitted, no off-site staging may occur on properties located within the City.
- (4) In the event that the City Manager determines that filming alters, impairs or impacts traffic flow, the permittee must use law enforcement personnel designated by the City Manager and his/her designee and comply with all traffic control requirements deemed necessary by the City Manager and his/her designee.
The permittee shall conduct operations in a neat and orderly fashion and free of debris with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The area used shall be cleaned of trash and debris upon completion of filming at the scene and restored to its original condition.
- (5) The permittee shall be liable for any damage suffered by the City resulting from the granting or use of a permit under this chapter and, at the election of the City Manager or his/her designee, shall repair the damage or reimburse the City for all expenses related to such damage.
- (6) Any other conditions that the City Manager may set in order to protect the health, safety and welfare of the public.

14-607. Insurance.

- (a) As a condition of issuance of a permit hereunder, every permittee must procure and maintain in full force and effect during the term of the permit a policy (or policies) of insurance from an insurance company licensed to do business in Tennessee, which policy (or policies) names the City, its officers, employees and agents as additional insureds insuring against any and all liability of permittee with respect to its obligations and liabilities under its permit and this chapter and its indemnities set forth herein, including, but not limited to, commercial general liability insurance on an "occurrence" basis against claims for personal injury, including death, bodily injury or property damage liability and in an amount not less than \$1,000,000, and which otherwise provides sufficient coverage that the City Manager or his/her designee determines to be necessary and adequate under the circumstances. Proof of insurance in a form acceptable to the City Manager shall be submitted to the City in advance of the issuance of the permit. The City Manager or his/her designee may waive the requirement of insurance or a particular type of coverage if the City Manager or his/her designee determines that the intended use does not present any significant exposure to liability for the City, its officers, employees and agents or to public property damage.

- (b) The permittee shall conform to all applicable federal and State requirements for Workers' Compensation Insurance for all persons operating under a permit.
- (c) Surety Bond. To ensure cleanup and restoration of the filming location and any public property involved in the filming, the permittee may be required to post a refundable Faithful Performance Bond, cash surety or other comparable form of security guarantee in an amount to be determined by the City Manager or his/her designee at the time an application is submitted or approved. Upon completion of filming and cleanup and restoration of the filming location and any public property involved in the filming to the satisfaction of the City Manager or his/her designee, the guarantee or security will be returned to the permittee.



**THE AMENDED AND RESTATED
ZONING ORDINANCE OF
THE CITY OF FOREST HILLS, TENNESSEE**

ADOPTED: January 5, 2012
AMENDED AND RESTATED: December 12, 2013

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ARTICLE I. GENERAL PROVISIONS

1.01. **Title.** This chapter shall be known and may be cited as “The Zoning Ordinance of Forest Hills, Tennessee” and may be referred to as “the Zoning Ordinance” or “this Ordinance.”

1.02. **Purpose.** In addition to the purpose of zoning regulations established in Section 13-7-103 of the Tennessee Code Annotated, the purpose of this Ordinance is to implement the Comprehensive Plan adopted on January 21, 2010 and for the purpose of promoting the health, safety, morals and general welfare of the community.

These regulations are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to establish a rational pattern of land use; and to encourage the most appropriate use of land and to enhance the property values within the City. This Ordinance has been prepared with reasonable consideration, among other things, as to the character of each district and its suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

1.03. **Relationship With Other Laws.**

(a) **Conflicts with Other Codes or Laws.** If a provision of this Ordinance is inconsistent with another provision of this Ordinance, or with a provision found in other adopted codes or ordinances of the City, the more restrictive provision shall govern, unless the terms of the more restrictive provision specify otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

(b) **Conflicts with Private Agreements.** The City shall not be responsible for monitoring or enforcing private easements, covenants, or restrictions, although the City may inquire as to whether land is subject to easements, covenants or restrictions during the review of applications.

(c) **Conflicts with State or Federal Law.** If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the State or Federal government, the more restrictive provision shall control, to the extent permitted by law.

1.04. **Zoning Map.**

(a) **Zoning Map Considered Part of Zoning Ordinance.** Zoning districts established by this Zoning Ordinance are bounded and defined as shown on the Zoning Map of the City (herein “Zoning Map”) adopted concurrently with this Zoning Ordinance, which Zoning Map and all pages and subparts thereof are hereby made a part of this Zoning Ordinance and incorporated herein.

(b) **Interpretation of Zoning District Boundaries.** For purposes of interpretation as may from time to time be necessary, the following rules shall be used to determine the precise location of any zoning district boundary shown on the Official Zoning Map:

(i) Boundaries shown as following the corporate limits of the City shall be construed as following such limits.

(ii) Boundaries shown as following, or approximately following, streets shall be construed as following the centerlines of such streets.

(iii) Boundary lines shown as following, or approximately following, platted Lot lines or other property lines, as shown on the City subdivision plat maps, shall be construed as following such lines.

(iv) Boundaries shown as following, or approximately following, the centerlines of streams and water courses shall be construed as following the channel centerline of such streams and water courses. In the event of a natural change in the location of such streams or water courses, the zoning district boundary shall be construed as moving with the channel centerline.

(v) Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in Paragraphs (i) and (ii) above, shall be construed to be parallel to such features and at such distances therefrom as are shown on the Official Zoning Map.

ARTICLE II. ZONING DISTRICTS AND THEIR PURPOSE

2.01. **General Provisions.** The City is hereby divided into zoning districts of such number and character as are necessary to achieve compatibility of uses within each district and to implement the Comprehensive Plan and to achieve the other purposes of this Zoning Ordinance. For the purpose of this Zoning Ordinance, all areas of the City are divided into the following zoning districts:

District	Minimum Lot Size
Estates 1A (E1A)	Six (6) acres
Estates A (EA)	Three (3) acres
Estates B (EB)	Two (2) acres
Estates C (EC)	One and one half (1.5) acres
Residential A (RA)	One and one quarter (1.25) acres
Neighborhood Conservation (NC1) and (NC2)	One (1) acre
Open Space Subdivision	One (1) acre
Historic Commercial (HC)	One and one quarter (1.25) acres
Country Club (CC)	One Hundred Sixty (160) acres
Institutional (IN)	Places of Worship: Ten (10) acres K-6 Schools: Twenty (20) acres 7-12 Schools: Fifty (50) acres
Municipal Floodplain Protection Overlay	N/A
Hillside Protection Overlay	N/A

2.02. **Residential Zoning Districts.** As indicated in the Comprehensive Plan, the City is a residential community. The purpose of the residential zoning districts is to provide the zoning standards and regulations to protect and promote the residential character of various areas of the City and to ensure that new development is performed in a manner that protects and enhances property values. The purpose and intent of each of the residential districts is stated below.

(a) **Estates 1A (E1A) District (6 acres).** The purpose of this district is to maintain and preserve the countryside park-like character in the area adjoining Percy Warner Park along Chickering and Page Roads as shown on the Comprehensive Plan.

(b) **Estates A (EA) District (3 acres).** The purpose of this district is to maintain and preserve the estate character in areas shown on the Comprehensive Plan along Hillsboro Pike. This district is established to provide greater setbacks and a more rural appearance along one of the City's major streets.

(c) **Estates B (EB) District (2 acres).** The purpose of this district is to maintain and preserve the estate character in the core areas of the City, as shown on the Comprehensive Plan, for areas generally east and west of Hillsboro Pike that are located beyond the corridor of the street itself. This district is established to provide the desired estate character in terms of Lot size and setbacks.

(d) **Estates C (EC) District (1.5 acres).** The purpose of this district is to provide an estate character along Granny White Pike as shown on the Comprehensive Plan. In light of the existing smaller Lot development located to the West of Granny White Pike, this district is created to provide the estate character along the eastern border of the City.

(e) **Residential A (RA) District (1.25 acres).** This district is primarily intended to recognize the character of older developed and platted areas of the City; some of which predate the creation of the City. The areas zoned in this district preserve a generally suburban community character and cover those areas so designated in the Comprehensive Plan. No rezoning of this district is ever envisioned. This district respects those portions of the City where smaller Lots were an established form of development prior to incorporation.

(f) **Neighborhood Conservation (NC1 and NC2) Districts (1 acre).** These districts are intended to preserve existing neighborhoods that were developed as one acre Lots under zoning district classifications no longer legal in the City, or which were developed before the City was incorporated as a City. NC1 and NC2 Districts shall never at any time in the future be used to develop new areas or Lots within the City. The NC1 and NC2 Districts make Lots under these districts conforming and, thereby, eliminate the problems landowners typically would face when improving existing homes on Nonconforming Lots within these classifications. Lots with minimum Lot widths of one hundred (100) feet are classified as NC1 and larger Lots as NC2.

2.03. **Non-Residential Zoning Districts.** The City of Forest Hills is a residential community with limited non-residential uses, including religious, educational, country club, and historic commercial uses. The purpose and intent of the non-residential districts is to provide zoning standards and regulations to govern and control these zoning districts and to protect the adjacent and adjoining residential districts. The purpose, intent, and specific regulations pertaining to each non-residential district is stated below.

(a) **Historic Commercial (HC) District.**

(i) **Generally.** This district is the only commercial zoning district in the City. It is created for the sole purpose of preserving the rights of historically commercial properties in the City. All Historic Commercial District properties were commercially used before the City was formed, for the sale of grocery products and gasoline sales and have remained commercial for those uses. There shall be no expansion of the boundaries of this district or new designations of any land for Historic Commercial District classification.

(ii) **Specific Requirements.** In addition to all other requirements of this Zoning Ordinance and of the Municipal Code, all Historic Commercial uses shall comply with the requirements of this Section:

(1) The Lot upon which the Historic Commercial use is located has been used for convenience store purposes, as in the nature of a country store, for at least sixty (60) years prior to the Controlling Date.

(2) The total area of the Lot devoted to the use shall not exceed two (2) acres.

(3) The maximum Floor Area of the principal building located on the Lot shall not exceed five (5) percent of the total Lot area, with at least seventy (70) percent of the Lot in landscaping.

(4) The Lot must have a minimum frontage along any arterial street of 300 feet as identified in the City's Major Street Plan.

(5) No Accessory Building or other Structure may be located on the Lot, provided, however, the Lot may have covered gas pumps not to exceed two pump structures (six nozzles per pump).

(6) There shall be screening as appropriate in the Rear Yard and Side Yard areas pursuant to a Landscaping Plan approved by the Planning Commission and Board of Commissioners. Such screening may consist of existing vegetation and landscape features or a combination of new plant materials, berms, and fencing. All Front Yards shall be appropriately landscaped. All landscaping and screening requirements shall be incorporated into an integrated Landscaping Plan for the property.

(b) **Country Club (CC) District.**

(i) Generally. This district is created to allow for development of a country club, which may have such amenities as a main club house and accessory buildings or uses as are customarily incident to country clubs, generally, including without limitation an 18-hole golf course, pro-shops, Swimming Pool, tennis courts, food preparation, dining and similar facilities, which may serve food and alcoholic beverages as are otherwise permitted by law on the premises. The country club shall be owned by a not-for-profit corporation for the sole use and benefit of its members and their guests and shall not be for the use of the general public other than as spectators at occasional tournaments.

(ii) Specific Requirements. In addition to all other requirements of this Zoning Ordinance and of the Municipal Code, all country clubs shall meet all of the requirements of this Section:

(1) There shall be screening as appropriate in the Rear Yard and Side Yard areas pursuant to a Landscaping Plan approved by the Planning Commission and Board of Commissioners. Such screening may consist of existing vegetation and landscape features or a combination of new plant materials, berms, and fencing. All Front Yards shall be appropriately landscaped. All landscaping and screening requirements shall be incorporated into an integrated Landscaping Plan for the property.

(2) The country club entrance shall be located on and take access from an arterial street as identified in the City's Major Street Plan.

(3) The country club shall provide one parking space for every three members and shall comply with all parking requirements set forth in Section 4.06.

(4) All activities requiring licenses or approvals of any public agency shall only be permitted for that time period for which a valid license or approval is obtained and maintained in force and effect. Where grades or classes of approval are granted, only the most restrictive may be permitted.

(c) **Institutional (IN) District.**

(i) Generally. This district is reserved for educational and religious uses only. No Institutional District may be created which contains less than the acreage required by Table 4.03 of this Zoning Ordinance.

(ii) Specific Requirements. All educational and religious uses shall meet all of the requirements of this Section.

(1) No building, Structure, or Lot shall be used, arranged, or designed to be used for any use other than:

(a) Places of Worship, or

(b) Public or Private Schools

(2) A Lot approved for a Place of Worship may also contain one (1) one family Dwelling constructed for use incidental to the operation of the Place of Worship.

(3) No Institutional use may be approved on any Lot having less than 200 feet of frontage upon a scenic arterial, arterial or residential collector street as identified in the City's Major Street Plan of record in Instrument number 20131216-0126854, Register's Office of Davidson County, Tennessee, as amended.

(4) There shall be screening as appropriate in the Rear Yard and Side Yard areas pursuant to a Landscaping Plan approved by the Planning Commission and Board of Commissioners. Such screening may consist of existing vegetation and landscape features or a combination of new plant materials, berms, and fencing. All Front Yards shall be appropriately landscaped. All landscaping and screening requirements shall be incorporated into an integrated Landscaping Plan for the property.

(5) All buildings and Structures constructed in an Institutional use district shall be harmonious with and complementary to the adjacent neighborhood, shall use natural, unobtrusive tones and surfaces, and shall have plans and specifications drawn by an architect licensed to conduct business in Tennessee. The architect shall certify in writing on the plans that all buildings and Structures comply with the requirements of the International Building Code, as amended, and all applicable federal, state, and local laws and regulations.

(d) **Creation of New Non-Residential Districts.** Any application for a new non-residential zoning district shall comply with the following procedures:

(i) No new non-residential zoning district shall be created unless a request to rezone is recommended by the Planning Commission and approved by a majority vote of the Board of Commissioners.

(ii) In the event that the Planning Commission does not recommend the creation of a non-residential zoning district, then the Board of Commissioners may approve the application, provided that such application is approved by a 2/3 majority vote of the Board of Commissioners.

(iii) The Planning Commission, in making its recommendation, and the Board of Commissioners, in making its decision, shall consider whether the proposed district is consistent with the Comprehensive Plan, in the best interests of, and promotes the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and the specific area in which the non-residential use district would be located.

(e) **Expansion, Alteration, or Replacements in Non-Residential Districts.** Prior to materially expanding, altering, or replacing any non-residential use of property (each an “**Expansion**”), the following requirements shall be met:

(i) The owner of the Lot must submit for approval of the Planning Commission and the Board of Commissioners a Concept Plan.

(ii) There shall be screening as appropriate in the Rear Yard and Side Yard areas pursuant to a Landscaping Plan approved by the Planning Commission and Board of Commissioners. Such screening may consist of existing vegetation and landscape features or a combination of new plant materials, berms, and fencing. All Front Yards shall be appropriately landscaped. All landscaping and screening requirements shall be incorporated into an integrated Landscaping Plan for the property.

(iii) In considering the Concept Plan and in making its recommendation to the Board of Commissioners, the Planning Commission shall consider the following criteria:

(1) Whether the proposed Expansion is consistent with the goals of the Comprehensive Plan;

(2) Whether the proposed Expansion complies with all other requirements of this Zoning Ordinance, the Municipal Code, and all applicable state and federal laws;

(3) Whether the proposed Expansion is consistent with, in the best interests of, and promotes the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and the specific area in which the non-residential use district would be located;

(4) Whether the proposed Expansion is consistent with the suburban estates character of the City;

(5) Whether the proposed Expansion will have a material detrimental effect upon the adjoining neighborhood with respect to (i) the flow of traffic, (ii) noise, and (iii) lighting;

(6) Whether the proposed Expansion provides landscaping and buffering sufficient to reasonably screen the non-residential use from adjacent residential areas; and

(7) Whether the proposed Expansion is architecturally compatible with the existing principal building; or if said principal building is destroyed by fire, act of God, or is voluntarily removed, whether the replacement is consistent with the architectural style of the surrounding area previously in existence on the Lot.

(iv) If the Planning Commission recommends the Concept Plan for approval by the Board of Commissioners, then a simple majority vote of the Board of Commissioners shall be required to approve the proposed Expansion. If, however, the Planning Commission does not recommend the Concept Plan for approval, then the Board of Commissioners may approve the Expansion, provided that the application therefor is approved by a 2/3 majority vote of the Board of Commissioners.

(f) **Notice of Requests to Re-Zone and to Alter, Expand, or Replace Non-Residential Uses.** When application is made for a new non-residential zoning district, or when a Concept Plan is submitted for a proposed Expansion, the City Manager shall give notice thereof to all residents of the City. Notice of the time and place of the Planning Commission's first scheduled meeting to review the re-zoning application or proposed Expansion shall be published once in a newspaper of general circulation in the City and delivered to all residents of the City via United States mail. Notice pursuant to this Section shall only be required for the first public hearing; provided, however, that the City Manager may provide further notices. The failure to notify residents by United States mail due to an error in records or any other circumstance shall not invalidate any recommendation of the Planning Commission or action of the Board of Commissioners.

2.04. **Open Space Subdivision Zoning District (OS).** The Open Space Subdivision District is intended to be a voluntary option for new subdivisions of land within the city. The City shall not mandate the rezoning of land into the Open Space Subdivision District; rather, an applicant may elect to pursue rezoning of land into this district. The Open Space Subdivision District is intended to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying city and economically desirable development of building sites within an Open Space Subdivision. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this Zoning Ordinance and the Comprehensive Plan and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open space.

(a) **Conditions.**

(i) Area. The minimum development site for any Open Space Subdivision shall be at least 10 acres. The minimum Lot size within each Open Space Subdivision shall be 1 acre.

(ii) Use. The Open Space Subdivision shall be used exclusively for residential uses.

(iii) Ownership. The land comprising the Open Space Subdivision shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

(iv) Design. Structures and open spaces within the site shall be arranged to ensure that adjacent properties will not be materially adversely affected. Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.

(v) Specific Regulations.

(1) The minimum lot width, front yard setback, rear yard setback, and side yard setback shall be determined by approval of the site Concept Plan.

(2) The minimum lot area shall be one (1) acre.

(3) The maximum height shall be thirty-five (35) feet.

(4) The maximum building cover shall be twelve percent (12%).

(5) The maximum impervious surface ratio shall be fifty percent (50%).

(vi) Open spaces. Each open space subdivision shall provide a minimum of thirty percent (30%) of its total acreage to be designated as Open Space and preserved in perpetuity in a natural state. The Open Space shall be designated as such on the final recorded plat. Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

(1) Creating a permanent conservation easement on and over the said private open spaces to guarantee that the open space remain perpetually undeveloped, with oversight and administration by a land trust or similar non-profit entity pursuant to an agreement which is acceptable to the Board of Commissioners, or

(2) Vesting title to said private open space in a homeowner's association, established with articles of association and bylaws, which are satisfactory to the Board of Commissioners.

(vii) Landscaping. Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed Open Space Subdivision into its surroundings shall be planned and presented to the Planning Commission for approval, together with other required plans for the development. A general Landscaping Plan will show proposed trees, shrubbery, and other landscaping for the Open Space area and common elements of the subdivision. A grading and drainage plan shall also be submitted to the Planning Commission with the application.

(viii) Signs. The size, location, design and nature of signs, if any, and the number and direction thereof shall be detailed in the application.

(ix) Desirability. The proposed location shall be shown as necessary or desirable, and to contribute to the general well-being of the surrounding area. It shall also be shown that under the circumstances of the particular case, the proposed subdivision will not be materially detrimental to the health, safety or general welfare of persons residing in the vicinity of the Open Space Subdivision.

(b) **Creation of an Open Space Subdivision District.**

(i) Rezoning Required. No new Open Space Subdivision shall be created unless a request to rezone the property to Open Space Subdivision is recommended by the Planning Commission and approved by the majority vote of the Board of Commissioners. In the event that the Planning Commission does not recommend the creation of an Open Space Subdivision, then the Board of Commissioners may approve the application, provided that such application is approved by a 2/3 majority vote of the Board of Commissioners.

(ii) Concept Plan Required. An applicant for an Open Space Subdivision shall submit to the Planning Commission a Concept Plan in accordance with the form and procedures outlined in the Subdivision Regulations.

(iii) Hearings by Planning Commission and Board of Commissioners. The Planning Commission shall consider the Open Space Subdivision concept plan, preliminary plat, and final plat in accordance with the procedures outlined in the Subdivision Regulations. Once the Planning Commission has voted to approve, approve with conditions, or disapprove the proposed Open Space Subdivision, the Secretary of the Planning Commission will forward the application to the Board of Commissioners for its consideration. Because an application for rezoning represents a legislative change, the Board of Commissioners will consider the application as an ordinance, requiring two affirmative public votes.

(c) **Planning Commission Determination**. In carrying out the intent of this Section, the Planning Commission shall consider the following principles:

(i) It is the intent of this Section that site and building plans for an Open Space Subdivision shall be prepared by a designer or team of designers having professional competence in suburban planning as proposed in the application. The commission shall be

permitted to require the applicant to engage such professional expertise as a qualified designer or design team.

(ii) It is not the intent of this section that control of the design of an Open Space Subdivision by the Planning Commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this Section that the control exercised be the minimum necessary to achieve the purpose of this Section.

(iii) In an approval, the Planning Commission shall be permitted to attach such conditions as it deems necessary to secure compliance with the purposes set forth in this Ordinance.

(iv) The Planning Commission, in making its recommendation, shall consider whether the proposed Open Space Subdivision is consistent with, in the best interests of, and promotes the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and the specific area in which the Open Space Subdivision would be located.

(d) **Modification of Standards.** The Board of Zoning Appeals shall not have the power to grant a variance from the requirements of this Section 2.04, specifically including, but not limited to, the requirements of Section 2.04(a). The Board of Commissioners shall have the power and authority to grant relief from the strict application of this Section 2.04, or to grant a modification of the standards herein, where, by reason of exceptional narrowness, shallowness, shape, exceptional topographic conditions or other extraordinary and exceptional situation or condition of a specific piece of property, the strict application of this Section 2.04 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the applicant for rezoning of the property, provided further that such relief may be granted without detriment to the public good and without substantially impairing the intent and purpose of this Section and this Ordinance.

(e) **Required Contributions.** The Planning Commission or Board of Commissioners, as part of the approval of an Open Space Subdivision, shall be permitted to require an applicant to make reasonable contributions to include, but not limited to any combination of the following:

(i) Dedication of land for public road right-of-way purposes.

(ii) Construction of, or addition to, roads serving the proposed project when such construction or addition is reasonably related to the traffic to be generated.

(iii) Installation of required traffic safety devices.

(iv) Preservation of areas containing significant natural, environmental, historic, archeological or similar resources.

2.05. Floodplain Protection Overlay District (FP).

There is hereby established the municipal floodplain protection district (“**FP District**”), the boundaries of which shall correspond to the areas of special flood hazard identified on the City of Forest

Hills, Tennessee, Federal Emergency Management Agency, Flood Insurance Study and Flood Insurance Rate Map, as defined in Title 14, Chapter 303(2) of the Municipal Code. The provisions of Title 14, Chapter 3, including all technical and development standards and requirements therein, are made a part hereof and incorporated herein. As an “overlay” district, any development or land disturbance within this area shall comply with the technical and development standards in Title 14, Chapter 3 in addition to the requirements associated with the primary zoning district. In cases where the technical and development standards and requirements may conflict between the primary and overlay district, the more stringent standards and requirements shall apply.

2.06. **Hillside Protection Overlay District (HP).**

(a) **Established.** The Hillside Protection overlay district (“**HP District**”) is hereby established to more adequately meet the challenges of development in the higher elevation areas of the City. The district shall include (i) all areas within the corporate limits of the City with an elevation of 800 feet or greater, and (ii) all areas within the corporate limits of the City with Steep Slopes. Where only a portion of a Lot has an elevation in excess of 800 feet or contains Steep Slopes, only that portion of the Lot encumbered by Steep Slopes or existing over 800 feet shall be included within the HP District. The district shall generally be depicted on the maps of the HP District maintained in the City offices; provided, however, that the provisions set forth in this Section shall apply to all areas with elevations and grades identified in this Section, and only to such areas, regardless of whether such areas are correctly depicted on maps. As an “overlay” district, any development or land disturbance within this area shall comply with the technical and development standards in this Section in addition to the requirements associated with the primary zoning district. In cases where the technical and development standards and requirements may conflict between the primary and overlay district, the more stringent standards and requirements shall apply.

(b) **Intent.** It is the intent of the HP district to encourage prudent land disturbance and development activities that maintain the natural, topographic character of the land. The technical and development standards within the primary zoning district alone are inadequate to preserve and protect the natural environment and scenic beauty of the City’s steep hillside areas. The additional standards set forth in this Section serve to protect the health, safety, quality of life and general welfare of the community. These standards are directed at minimizing the impact of building construction and land disturbance activities in steep hillside areas including, but not limited to, unsafe geologic disturbance, soil erosion and surface water runoff from excessive removal of trees and other vegetative cover, and severe cutting, physical scarring and visual modification of the natural terrain.

(c) **Applicability.**

(i) **Generally.** For all property located within the HP district, the standards of this Section shall apply to (a) the approval of any new subdivision of land, (b) the construction or erection of any new residential Dwelling or any other new Structure that requires a building permit, and (c) any land disturbance activity that requires a permit pursuant to the Storm Water Management Ordinance, unless exempted by the terms therein.

(ii) **Exemptions.** The following disturbances or actions shall be permitted within the HP District without the necessity of compliance with this Section:

(1) Expansion of Existing Structures. Building permits or grading permits issued for the expansion of an existing Structure, provided that such expansion is less than a twenty-five percent (25%) expansion in total Impervious Surface area or 1,500 square feet of finishable Floor space, whichever is less;

(2) Accessory Structures. Building permits issued for the construction of new Structures to be used as an accessory to a principal Dwelling, with the exception of Swimming Pools, where said Structure contains less than six hundred fifty (650) square feet;

(3) Fences. Permits issued for construction of Fences or maintenance to any existing Fence;

(4) Interior Construction. Building permits issued for interior construction or remodeling of a Dwelling, or building permits issued related to the enclosure of previously unenclosed spaces, such as porches and patios, where no new impervious surface will be added;

(5) Miscellaneous. Such other reasonable land disturbances that result in an improvement in slope stability.

(iii) Nonconforming lots and structures. Within the HP District, any Lot established on an unexpired, approved preliminary plat or executed final plat and/or any existing Structure that was lawfully constructed prior to the Controlling Date may be developed, improved or continued in use; provided, however, when such property is developed or when an existing structure is enlarged by more than a twenty-five percent (25%) expansion in total Impervious Surface area or 1,500 square feet of finishable Floor space, whichever is less, the Lot shall be brought into conformance with the standards of this Section to the greatest extent feasible. Exceptions to the standards may be approved by the Board of Zoning Appeals if it determines that the proposed plan will more adequately achieve the intent of this Section and/or full compliance will pose an undue burden on the property owner.

(d) **New Subdivisions within the HP District.** The following standards shall apply to new subdivisions of land within the HP District:

(i) Minimum Lot Area. Any new Lot created within the HP District shall be comprised of not less than three (3) acres.

(ii) Maximum Allowable Area of Disturbance. Not more than ten percent (10%) of the total acreage of that portion of the Lot encumbered by Steep Slopes or Slippage Soils may be disturbed.

(iii) Location of Buildings. No Dwelling or other Structure shall be permitted in areas with Steep Slopes. In addition, the building envelope shall be at least 50 feet away from any areas classified as Steep Slopes.

(iv) Streets and Driveways. Streets and driveways shall be designed and constructed in accordance with the requirements of the Subdivision Regulations and Section 4.07, as applicable.

(e) **Technical Standards for Construction**. Where the provisions of this Section are applicable pursuant to Section 2.06(c), the construction standards contained in Section 6.03 shall apply.

ARTICLE III. USE REGULATIONS

3.01. **General Provisions.** No building, Dwelling, Lot, Structure, or property shall be used, developed, designed or constructed unless it conforms to the permitted uses specified in this Article.

3.02. **Permitted Uses.** Only those uses specifically permitted in a zoning district shown in Table 3.02 shall be permitted; all other uses, including business establishments, enterprises and activities, and those uses not mentioned in Table 3.02, shall be prohibited.

Table 3.02
Table of Permitted Uses

USE	E1A	EA	EB	EC	RA	NC1/NC2	OS	HC	CC	IN
One-Family Dwelling	P	P	P	P	P	P	P	N	N	C ¹
Place of Worship	N	N	N	N	N	N	N	N	N	P
School	N	N	N	N	N	N	N	N	N	C ²
Country Club	N	N	N	N	N	N	N	N	P	N
Commercial	N	N	N	N	N	N	N	P	N	N
Livestock	C ³	C ³	C ³	C ³	N	N	N	N	N	N
Accessory Buildings and Uses	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	N	C ⁴	C ⁴
Signs	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵	C ⁵
Home Occupations	P	P	P	P	P	P	P	N	N	N
Guest Houses / Caretaker Cottages	C ⁶	C ⁶	C ⁶	C ⁶	C ⁶	N	N	N	N	N
Towers and Antennas	C ⁷	C ⁷	C ⁷	C ⁷	C ⁷	C ⁷	C ⁷	C ⁷	C ⁷	C ⁷
Temporary Buildings and Uses	C ⁸	C ⁸	C ⁸	C ⁸	C ⁸	C ⁸	C ⁸	C ⁸	C ⁸	C ⁸
Accessory Apartments	C ⁹	C ⁹	C ⁹	C ⁹	C ⁹	C ⁹	N	N	N	N

- P = The use is permitted.
- N = The use is not permitted.
- C = The use is conditionally permitted.

3.03. **Temporary Uses.**

(a) **Purpose.** This Section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses comply with the standards in this Section and

¹ See Section 2.03(c) for conditions.

² See Section 2.03(c) for conditions.

³ No livestock (other than horses or ponies) shall be permitted on Lots of less than 15 acres. On lots of 15 acres or greater, livestock are permitted provided the Animal Unit per acre requirements, as defined in Section 11.03, are never exceeded. For all Lots under 15 acres, one (1) horse or pony shall be permitted for every 2.5 acres. Domesticated hens are permitted all residential districts in accordance with Title 10, Chapter 1 of the Municipal Code.

⁴ See Section 3.04 and Article IV for conditions.

⁵ See Section 4.10 for conditions.

⁶ See Section 3.04 for conditions.

⁷ See Section 3.05 for conditions.

⁸ See Section 3.03 for conditions.

⁹ See Section 3.04 for conditions.

are discontinued upon the expiration of the established time period. Temporary uses and special events shall not involve the construction or alteration of any permanent building or Structure.

(b) **Table of Permitted Temporary Uses and Structures.** Table 3.03(b) summarizes permissible temporary uses of land and Structures and the standards that apply. Temporary uses or Structures not listed in Table 3.03(b) are prohibited.

Table 3.03(b)
Permitted Temporary Uses and Structures

Temporary Use or Structure	Allowable Duration (per site)	Permit Required	Additional Requirements
Seasonal Agricultural Sales	25 non-consecutive days per calendar year	Yes	Subsection 3.03(d)(i) below
Special Events	30 consecutive days per calendar year	Yes	Subsection 3.03(d)(ii) below
Construction Trailer and Construction Dumpster	Until issuance of a Certificate of Occupancy	No	Subsection 3.03(d)(iii) below
Temporary Storage or Portable Container	30 days	Yes	See Section 13-301, et seq. of the Municipal Code

(c) **General Standards for Temporary Uses and Structures.** Every temporary use, Structure, and event shall:

- (i) Comply with all ordinances and regulations of the City, including, but not limited to, the sale of alcohol, property maintenance, trash disposal, signage, parking, and noise;
- (ii) Obtain the appropriate permit from the City Manager prior to commencement of the temporary use or erection of the temporary Structure;
- (iii) Be compatible with the principal use of the Lot;
- (iv) Contain sufficient land area to allow the temporary use, Structure, or special event to occur, as well as adequate land area to accommodate the parking and traffic movements associated with the temporary use, without disturbing environmentally sensitive lands or nearby residential neighborhoods.
- (v) Not be materially detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
- (vi) Not have an adverse effect or noise impact on nearby residential neighborhoods;
- (vii) Not include permanent alterations to the Lot;

- (viii) Not maintain temporary signs associated with the use or Structure after the activity ceases;
- (ix) Not violate the applicable conditions of approval that apply to a Lot or use on the Lot; or
- (x) Not interfere with the normal operation of any permanent use of the Lot.
- (xi) Not include an amusement ride, fair, flea markets, or similar commercial activity.

(d) **Specific Regulations for Certain Temporary Uses and Structures.**

(i) Seasonal Agricultural Sales. Seasonal agricultural sales, including the sale of such items as pumpkins, seasonal produce, and similar agricultural products may be permitted in accordance with the following standards:

(1) *Application.* Any person desiring to conduct a seasonal agricultural sale shall make an application in writing, which application shall contain the following information:

(a) Location and proposed dates for the seasonal agricultural sale;

(b) Name and contact information for persons responsible for the proper conduct of the seasonal agricultural sale;

(c) The applicant shall provide the City with a certificate of general liability insurance with minimum coverage of five hundred thousand dollars (\$500,000) or such other amount as reasonably determined by the City Manager. The policy shall name the City of Forest Hills as an additional insured; and

(d) Traffic management and parking plan.

(e) A list of vendors permitted to participate in the seasonal agricultural sale together with a list of items permitted to be sold by said vendors.

(f) A copy of all permits, licenses, and certificates required for the sale of products regulated by the Board of Health and the Tennessee Department of Agriculture, or both, as applicable.

(g) An agreement, in form and substance approved by the city, indemnifying the city against claims, damages, and liabilities arising or resulting from the seasonal agricultural sale.

(2) *Notice.* Prior to approving the application, the City shall send notice directly to all Lot owners whose property adjoins the subject Lot and to all Lot owners within three hundred (300) feet of the nearest Lot line of the subject property and any other Lot owners who might be deemed directly affected by the application.

(3) *Location.*

(a) All Seasonal Agricultural Sales shall be held on Lots in non-residential zoning districts only.

(b) The Lot shall contain an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.

(c) The sale of agricultural products shall not occur within the public Right-of-Way or within 200 feet of any Dwelling.

(4) *Permitted Goods.* Vendors may sell the following goods subject to the following specific requirements:

(a) *Farm Products.* Farm products, including vegetables, fruits, honey, herbs, eggs, cheese, dairy products and meats; provided, however, that any vendor who desires to sell eggs, meats, dairy products, or any other regulated farm product must first deliver to the city a valid regulatory services permit from the Tennessee Department of Agriculture and display the permit at while participating in a sale.

(b) *Processed Foods.* Processed, prepared, and packaged foods, including baked goods, jams, jellies, sauces, preserves, pet foods, canned food, and any food that has been processed beyond its natural state; provided, however, that any vendor who desires to sell processed foods must first deliver to the city a valid regulatory services permit from the Tennessee Department of Agriculture and display the permit at while participating in a sale. Notwithstanding the foregoing, vendors may sell “nonpotentially hazardous foods” (as defined in T.C.A. 53-8-117(a)(2)) provided that such vendors comply with all signage and labeling requirements pursuant to T.C.A. 53-8-117.

(c) *Prepared Foods.* Foods prepared for on-site consumption; provided, however that any applicant who desires to sell foods prepared for on-site consumption must first deliver to the city a valid food service establishment permit together with the latest food service establishment inspection report for the vendor and display the permit and inspection report while participating in a sale

(5) *Sales from a Vehicle.* The sale of products from a vehicle shall not be considered to be seasonal agricultural sales and is strictly prohibited.

(6) *Hours of Operation.* The hours of operation of the seasonal sale of agricultural products shall be no earlier than 7:00 A.M. to not later than 12:00 noon. The Lot or site shall be restored to its original condition within two (2) hours of the termination of the daily activities.

(7) *Disposal of Un-saleable Goods and Products.* All unsold goods and products shall be removed from the Lot within two (2) hours of the termination of the daily activities.

(ii) Special Events. Special events, including, but not limited to, show houses, fundraisers, concerts, and the like, may be permitted in accordance with the following standards:

(1) *Application.* Any person desiring to conduct a special event shall make an application in writing, which application shall contain the following information:

(a) Location and proposed dates for the special event;

(b) Name and contact information for persons responsible for the proper conduct of the special event;

(c) The applicant shall provide the City with a certificate of general liability insurance with a minimum coverage of five hundred thousand dollars (\$500,000) or such other amount as reasonably determined by the City Manager. The policy shall name the City of Forest Hills as an additional insured; and

(d) A traffic management and parking plan.

(2) *Notice.* Prior to approving the application, the City shall send notice directly to all Lot owners whose property adjoins the subject Lot and to all Lot owners within three hundred (300) feet of the nearest Lot line of the subject property and any other Lot owners who might be deemed directly affected by the application.

(3) *Location.* The Lot shall contain an area not actively used that will support the proposed special event without creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability. The special event shall not occur within the public Right-of-Way or within 200 feet of any Dwelling.

(4) *Hours of Operation.* No special event shall commence prior to 7:00 A.M. or conclude later than 10:00 P.M.

(iii) Construction Dumpsters and Construction Trailers. The placement of a temporary construction dumpster or other trash receptacle or construction trailers shall comply with the following standards:

- (1) Be located to the side or the rear of the site, to the maximum extent practicable;
- (2) Be located as far as possible from lots containing existing development;
- (3) Be located outside of tree protection fencing and the dripline of existing trees;
- (4) Not be located within a floodplain, floodway, or otherwise obstruct drainage flow; and
- (5) Not be placed within five (5) feet of a fire hydrant.

3.04. Certain Accessory Uses.

(a) **Swimming Pools And Pool Houses.**

(i) Generally. All Swimming Pools shall comply with all requirements of the Municipal Code, as amended, and all applicable state laws, including, but not limited to T.C.A. § 68-14-801, et seq.

(ii) Fence Required. All Swimming Pools, together with all mechanical equipment necessary to the operation of the same, shall be enclosed, either by the structural wall or walls of the Dwelling to which it is an accessory, or by a Fence or wall that (i) complies with the requirements of Section 4.08 of this Zoning Ordinance, and (ii) is of the type required by the latest edition of the International Residential Code, as adopted by the City of Forest Hills.

(iii) Gate Required. Every door, gate or other entrance to said Swimming Pool enclosure shall be self-closing and self-latching and shall be capable of being secured with lock and key. All Swimming Pool lighting shall be located within the Swimming Pool itself or no more than twenty-four (24) inches above ground level around the Swimming Pool.

(iv) Pool Houses with Living Quarters. Any pool house that can be used as a Dwelling shall be deemed a Guest House / Caretaker Cottage and subject to the requirements of Section 3.04(b).

(b) **Guest Houses And Caretaker Cottages.**

(i) A Guest House/Caretaker Cottage shall comply with all Rear Yard and Side Yard setbacks, maximum height and maximum building cover requirements set forth in Table 4.02 and Table 4.05(a).

(ii) There shall be no further Subdivision of any Lot upon which a Guest House/Caretaker Cottage is located.

(c) **Accessory Apartments.** An Accessory Apartment shall be permitted and considered to be an Accessory Use to a Dwelling subject to the following conditions:

(i) The principal Dwelling is owner-occupied and meets all applicable regulations;

(ii) The Accessory Apartment shall not be rented;

(iii) Only one (1) Accessory Apartment shall be permitted;

(iv) There is free and clear access between the principal Dwelling and the Accessory Apartment without going outdoors;

(v) Only one (1) meter per utility may be installed to service both the Accessory Apartment and the principal Dwelling;

(vi) A maximum of twenty-five percent (25%) of the total Floor Area may be used for the Accessory Apartment;

(vii) No entrance to the Accessory Apartment shall be visible from the street;

(viii) The Accessory Apartment must be occupied by a family member defined herein as a grandmother, grandfather, grandson, granddaughter, mother, father, sister, brother, son, daughter, mother in-law, father in-law, sister in-law, brother in-law, son in-law, daughter in-law, aunt or uncle; and

(ix) An instrument shall be recorded with the register's office covenanting that the Accessory Apartment is being established pursuant to this Section and may only be used under the conditions listed above.

(d) **Stables And Barns.** A Stable is required if any horses or ponies are kept on property consisting of less than 15 acres.

(e) **Domesticated hens.**

(i) Type and number. A parcel of land shall contain the maximum number of domesticated hens identified below. Only hens are allowed; roosters are expressly prohibited. There is no restriction on domestic hen breeds.

Maximum Number of Domesticated Hens	Acreage
2	<1
4	1-3
6	>3

(ii) Location. All domesticated hens shall be kept in the rear yard of a lot subject to the applicable setback standards. No domesticated hens shall be kept in the front yard. Neither the hens nor the covered henhouse shall be visible from any public right-of-way. Rather, the hens and henhouse shall be entirely screened from view of the public right-of-way using opaque fencing and/or landscaping.

(iii) Setbacks. An enclosure shall be located twenty-five (25) feet away from any residential structure (other than the permit holder's residence) located in a residential zone district and ten (10) feet from any property line.

(iv) Permit required. A valid permit issued by the City Manager pursuant to Title 10 of the Municipal Code shall be obtained and maintained annually.

3.05. **Towers And Antennas.**

(a) **Applicability.** All new Towers or Antennas and expansions, modifications, and alterations of Pre-existing Towers and Pre-existing Antennas in the City shall be subject to these regulations. Preexisting Towers and Preexisting Antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 3.05(b)(v) and 3.05(b)(vi).

(b) **General Requirements.**

(i) Principal or Accessory Use. Antennas and Towers may be considered either principal or accessory uses. A different existing use of an existing Structure on the same Lot shall not preclude the installation of an Antenna or Tower on such Lot.

(ii) Inventory of Existing Sites. Each applicant for a new Antenna and/or Tower shall provide to the City Manager an inventory of its existing Towers, Antennas, or sites approved for Towers or Antennas, that are within the jurisdiction of Forest Hills and within one (1) mile of the border thereof, including specific information about the location, height, and design of each Tower. The City Manager may share such information with other applicants applying for permits under this Section or other organizations seeking to locate Antennas within the City; provided, however that the City Manager is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(iii) Aesthetics. Towers and Antennas shall meet the following requirements:

(1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

(2) At a Tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

(3) If an Antenna is installed on a Structure other than a Tower, the Antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the Antenna and related equipment as visually unobtrusive as possible.

(iv) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(v) State and Federal Requirements. All Towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate Towers and Antennas. If such standards and regulations are changed, then the owners of the Towers and Antennas governed by this Section shall bring such Towers and Antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring Towers and Antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the Tower or Antenna at the owner's expense.

(vi) Building Codes; Safety Standards. To ensure the structural integrity of Towers, the owner of a Tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes and the applicable standards for Towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a Tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the Tower, the owner shall have thirty (30) days to bring such Tower into compliance with such standards. Failure to bring such Tower into compliance within said thirty (30) days shall constitute grounds for the removal of the Tower or Antenna at the owner's expense.

(vii) Not Essential Services. Towers and Antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

(viii) Franchises. Owners and/or operators of Towers or Antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City have been obtained and shall file a copy of all required franchises with the City Manager.

(ix) Signs. No signs shall be allowed on an Antenna or Tower.

(x) Buildings and Support Equipment. Buildings and support equipment associated with Antennas or Towers shall comply with the requirements of Section 3.05(e).

(c) **Administratively Approved Uses.**

(i) Generally. The following provisions shall govern the issuance of administrative approvals for Towers and Antennas.

(1) The City Manager may administratively approve the uses listed in this Section.

(2) Each applicant for administrative approval shall apply to the City Manager providing (i) information in Sections 3.05(d)(ii)(1)(a) and 3.05(d)(ii)(3) of this Section, (ii) information demonstrating compliance with Section 3.05(b), and (iii) a nonrefundable fee as established by the Fee Resolution.

(3) The City Manager shall review the application for administrative approval and determine if the proposed use complies with Sections 3.05(b), and 3.05(d)(ii)(4).

(4) The City Manager shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the City Manager fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.

(5) In connection with any such administrative approval, the City Manager may, in order to encourage shared use, administratively waive any zoning district setback requirements in Section 3.05(d)(ii)(4) by up to fifty percent (50%).

(6) In connection with any such administrative approval, the City Manager may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing Tower to monopole construction.

(7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to Section 3.05(d) prior to filing any appeal that may be available under the Zoning Ordinance.

(ii) List of Administratively Approved Uses. The following uses may be approved by the City Manager after conducting an administrative review:

(1) *City and Property.* Antennas or Towers located on property owned, leased, or otherwise controlled by the City provided a license or lease authorizing such Antenna or Tower has been approved by the City.

(2) *Collocation of Antennas on Existing Towers.* An Antenna which is attached to an existing Tower may be approved by the City Manager and, to minimize adverse visual impacts associated with the proliferation and clustering of Towers, collocation of Antennas by more than one carrier on existing Towers shall take precedence over the construction of new Towers, provided such collocation is accomplished in a manner consistent with the following:

(a) A Tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing Tower, unless the City Manager allows reconstruction as a monopole.

(b) Height. An existing Tower may not be modified or rebuilt to a taller height, to accommodate the collocation of an additional antenna.

(c) Onsite location.

1) A Tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

2) After the Tower is rebuilt to accommodate collocation, only one Tower may remain on the site.

(3) *Alternative Structures.* Locating any alternative tower structure that in the judgment of the City Manager is in conformity with the goals set forth in Section (a) of this ordinance.

(4) *Microcell.* Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(d) **Special Use Permits.**

(i) Generally. The following provisions shall govern the issuance of special use permits for Towers or Antennas by the Planning Commission:

(1) If the Tower or Antenna is not permitted to be approved administratively pursuant to Section 3.05(c) of this Section, then a special use permit shall be required for the construction of a Tower or the placement of an Antenna in all zoning districts.

(2) In granting a special use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed Tower on adjoining properties.

(3) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

(4) An applicant for a special use permit shall submit the information described in this Section and a non-refundable fee as established by the Fee Resolution.

(ii) Applications for Special Use Permits for Towers and Antennas.

(1) *Information required.* Applicants for a special use permit for a Tower shall submit the following information:

(a) A scaled site plan clearly indicating the location, type and height of the proposed Tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed Tower and any other Structures, topography, parking, and other information deemed by the City Manager to be necessary to assess compliance with the Zoning Ordinance.

(b) Legal description of the parent tract and leased parcel (if applicable).

(c) The setback distance between the proposed Tower and the nearest residential Dwelling, platted residentially zoned properties, and unplatted residentially zoned properties.

(d) The separation distance from other Towers described in the inventory of existing sites submitted pursuant to Section 3.05(b)(ii) shall be shown on a site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

(e) A Landscaping Plan.

(f) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

(g) A description of compliance with Sections 3.05(b)(i) - (x) (general requirements), Section 3.05(d)(ii)(4) (setbacks), and all applicable federal, state or local laws.

(h) A notarized statement by the applicant as to whether construction of the Tower will accommodate collocation of additional Antennas for future users.

(i) Identification of the entities providing the Backhaul Network for the Tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

(j) A description of the suitability of the use of existing Towers, other structures or alternative technology not requiring the use of Towers or structures to provide the services to be provided through the use of the proposed new Tower.

(k) A description of the feasible location(s) of future Towers or Antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed Tower is erected.

(2) *Factors Considered in Granting Special Use Permits for Towers.* The Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this Section are better served thereby:

- (a) Height of the proposed Tower;
- (b) Proximity of the Tower to residential structures and residential district boundaries;
- (c) Nature of uses on adjacent and nearby properties;
- (d) Surrounding topography;
- (e) Surrounding tree coverage and foliage;
- (f) Design of the Tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (g) Proposed ingress and egress; and
- (h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of Towers or Structures, as discussed in 3.05(c)(ii)(3)-(4) of this Section.

(3) *Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.* No new Tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing Tower, Structure or alternative technology that does not require the use of Towers or Structures can accommodate the applicant's proposed Antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing Towers, other Structures or alternative technology. Evidence submitted to demonstrate that no existing Tower, Structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

(a) No existing Towers or Structures are located within the geographic area that meets applicant's engineering requirements.

(b) Existing Towers or Structures are not of sufficient height to meet applicant's engineering requirements.

(c) Existing Towers or Structures do not have sufficient structural strength to support applicant's proposed Antenna and related equipment.

(d) The applicant's proposed Antenna would cause electromagnetic interference with the Antenna on the existing Towers or Structures, or the Antenna on the existing Towers or Structures would cause interference with the applicant's proposed Antenna.

(e) The fees, costs, or contractual provisions required by the owner in order to share an existing Tower or Structure or to adapt an existing Tower or Structure for sharing are unreasonable. Costs exceeding new Tower development are presumed to be unreasonable.

(f) The applicant demonstrates that there are other limiting factors that render existing Towers and Structures unsuitable.

(g) The applicant demonstrates that an alternative technology that does not require the use of Towers or Structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(4) *Setbacks.* The following setback requirements shall apply to all Towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this Section would be better served thereby:

(a) Towers must be set back a distance equal to at least two hundred (200) feet or three hundred percent (300%) of the height of the Tower, whichever is greater, from any adjoining lot line.

(b) Guys and Accessory Buildings must satisfy the minimum zoning district setback requirements.

(5) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.

(6) *Landscaping.* The following requirements shall govern the landscaping surrounding Towers for which a special use permit is required.

(a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the Tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least twenty-five (25) feet wide outside the perimeter of the compound.

(b) In locations where the visual impact of the Tower would be minimal, the landscaping requirement may be reduced or waived.

(c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as Towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(e) **Buildings or Other Equipment Storage.** The equipment cabinet or structure used in association with Antennas shall comply with the following:

(i) The cabinet or structure shall not contain more than 300 square feet of gross Floor Area or be more than 12 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located; provided, however, the requirements of this provision may be modified by the City Manager or by the Planning Commission to encourage collocation.

(ii) Equipment storage buildings or cabinets shall comply with all applicable building codes.

(f) **Removal of Abandoned Antennas and Towers.** Any Antenna or Tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such Antenna or Tower shall remove the same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned Antenna or Tower within said ninety (90) day shall be grounds to remove the Tower or Antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the Tower.

ARTICLE IV. BULK STANDARDS AND OTHER PERFORMANCE REQUIREMENTS

4.01. **General Provisions.** All buildings, Dwellings, Structures, developments and uses and all changes, renovations or expansions thereof shall meet the district and Lot standards and requirements of this Article.

4.02. **Residential Bulk Standards.** All residential uses shall meet the requirements of Table 4.02. Only one principal Dwelling or principal building is permitted on a single Lot; provided, however, that the City Manager may permit an owner of a Dwelling to continue to live in a Dwelling during the period that a replacement Dwelling is under construction on the same Lot. If so permitted, the owner of the Lot shall provide a performance agreement secured by a letter of credit pursuant to which the owner shall covenant to demolish the original Dwelling upon substantial completion of the replacement Dwelling.

**Table 4.02
Residential Bulk Standards**

District	Min. Lot Area (acres)	Min. Lot Width (ft)¹⁰	Min. Street Front (ft)¹¹	Front Yard Setback (ft)¹²	Side Yard Setback (ft)^{13 14}	Rear Yard Setback (ft)	Max. Height (ft)¹⁵	Max. Bldg. Cover	ISR¹⁶
EIA	6	250	125	150	60	100	35	.05	.14
EA	3	250	125	150	60	100	35	.06	.16
EB	2	200	100	125	50	75	35	.08	.18
EC	1.5	200	100	90	45	50	30	.09	.20
RA	1.25	185	90	90	45	50	30	.10	.20
NC1	1	100	80	90 ¹⁷	20	25	30	.12	-
NC2	1	175	100	90 ¹⁶	40	40	30	.12	-
OS¹⁸	1	-	-	-	-	-	35	.12	.30

4.03. **Non-Residential Bulk Standards.** All non-residential uses shall meet the requirements of Table 4.03.

¹⁰ Minimum Lot Width is measured at the Building Setback Line.

¹¹ All Lots shall have minimum street frontage of one-half (1/2) the Minimum Lot Width, except on a cul-de-sac street which shall be forty (40) feet.

¹² If existing buildings on adjoining Lots are built within Front Yards, then the new building on subject Lot may be built no closer than the average Front Yard setback of the existing building(s) located on either side of the subject Lot.

¹³ On Corner Lots, the setback from the front Lot line with which the residence is oriented, or which the main entrance or front door of the residence faces, shall be as required in Table 4.02. The setback from the other of the two front Lot lines shall be at least seventy-five percent (75%) of the requirement set forth in Table 4.02.

¹⁴ On all Lots, the Side Yard setbacks shall be the greater of the setbacks shown in Table 4.02 or twenty percent (20%) of overall lot width.

¹⁵ On all Lots, the Maximum Building Height shall be the greater of the Maximum Height shown in Table 4.02 or one hundred twenty percent (120%) of the average height of residential buildings fronting the same street within one thousand (1000) feet of the Lot.

¹⁶ Impervious Surface Ratio.

¹⁷ The Lot line, as measured to the centerline of the private road, may be used to calculate the size of the Lot and the Front Yard setbacks.

¹⁸ See Section 2.04(a)(v) for applicable bulk standards.

Table 4.03
Non-Residential Bulk Standards

District	Min. Lot Area (acres)¹⁹	Min. Lot Width (ft)²⁰	Front Yard Setback (ft)	Side Yard Setback (ft)	Rear Yard Setback (ft)	Max. Height (ft)	Max. Bldg. Cover	ISR
HC	1.25	185	100	35	75	25	.05	.30
IN (Places of Worship)	10	400	150	150	100	45 ²¹	.06	.35
IN (K-6 School)	20	400	150	150	100	45	.06	.40
IN (7-12 School)	50	400	150	150	100	45	.06	.40
CC	160	1000	500	500	500	35	.04	.12

4.04. **Reserved.**

4.05. **Accessory Use Bulk Standards.** All Accessory Uses shall meet the requirements of this Section.

(a) **Bulk Standards Generally.** All Accessory Uses shall be located in the Rear Yard and set back from the rear and side property lines as follows:

¹⁹ The minimum Lot area for premises to be used both as a Public or Private School and as a Place of Worship shall be the greatest area required for any of the uses plus one-half of the area required for each of the other uses.

²⁰ Minimum Lot width is measured at the minimum setback line.

²¹ Places of Worship may have steeples, or other architectural features that exceed the maximum height limitations set forth in Table 4.03 of this Zoning Ordinance provided they meet the following requirements:

(a.) Said steeples or other architectural features shall cover no more than five (5) percent of the total ground Floor Area.

(b.) Said steeples or other architectural features shall not exceed seventy (70) feet in height as measured from the ground beneath the steeple or other architectural feature to the top of the steeple or other architectural feature.

(c.) Said steeples or architectural features may exceed the aforesaid limitations in paragraphs (a.) and (b.) above, provided they are approved by the Board of Commissioners.

Table 4.05(a)
Accessory Use Bulk Standards

District	Rear Yard Setback	Side Yard Setback
E1A	30'	60'
EA	30'	60'
EB	25'	50'
EC	20'	45'
RA	15'	45'
NC1	15'	20'
NC2	15'	40'
OS	15'	40'
HC	See 4.05(b)	See 4.05(b)
IN	See 4.05(c)	See 4.05(c)
CC	See 4.05(c)	See 4.05(c)

(b) **HC District.** Accessory Uses are not permitted in the Historic Commercial District, except that an existing shelter over gas pumps shall be permitted as provided in Section 2.03(a)(ii).

(c) **IN and CC Districts.** In the Institutional and Country Club Districts, no Accessory Use shall be located closer than one hundred (100) feet to the nearest property line; provided, further, that no lighted Accessory Use shall be located closer than two hundred (200) feet to the nearest property line.

(d) **Other Bulk Standards:**

(i) Height. Accessory Uses shall not exceed twenty-five (25) feet in height or the height of the principal Dwelling or principal building, whichever height is lower.

(ii) Maximum Building Cover; Impervious Surface Ratio. The maximum Building Cover and Impervious Surface Ratio for an Accessory Use combined with a principal Dwelling or principal building shall not exceed the Bulk Standards identified in Table 4.02 and Table 4.03.

(iii) Floor Area Ratio. The total Floor Area Ratio of all Accessory Uses combined shall not exceed 0.01.

(e) **Permissible Materials.** Accessory Uses shall be constructed of materials that are harmonious with the principal Dwelling or principal building by using natural tones and surfaces.

(f) **Time of Construction.** Construction of Accessory Uses shall not commence prior to commencement of construction of the principal Dwelling.

4.06. **Parking.**

(a) **Generally.**

(i) Off-Street Parking Space Allocations by Land Use Type. Off-street parking space for automobiles shall be provided on any Lot within any zoning district created under this Zoning Ordinance upon which any of the following uses listed in Table 4.06(a) are established:

Table 4.06(a)
Uses and Required Off-Street Parking Spaces

<u>Type of Use</u>	<u>Minimum Number of Parking Spaces</u>
Dwellings	Two (2) spaces per Dwelling
Places of Worship	One (1) space for every three (3) seats in the main auditorium, sanctuary, or assembly room.
Schools: Grades K - 6	Two (2) spaces per classroom or one (1) space for every five (5) seats in an auditorium or assembly room, whichever is greater.
Schools: Grades 7 - 12	Four (4) spaces for each classroom or one (1) space for every five (5) seats in an auditorium or assembly room, whichever is greater. Additional space shall be provided for sports stadiums or gymnasiums so that the additional off-street parking equals one (1) space for every four (4) seats in the sports facility.
Historic Commercial	One (1) space per two hundred fifty (250) square feet of Floor Area, and one (1) space for every two (2) gasoline pumps.
Country Clubs	One (1) space for every three (3) members.

(ii) Determination of the Number of Off-Street Parking Space Required. In determining off-street parking spaces, if not shown by the submitted plan and actual count, four hundred (400) square feet of gross area per parking space shall be used. Where the calculation of the foregoing required off-street parking spaces results in a fractional number, the parking spaces required shall be construed to be the next highest whole number.

(b) **Special Locational Requirements for Specific Uses.**

(i) Places of Worship and Public or Private Schools. The parking lot of a Place of Worship and a Public or Private School shall be no closer than one hundred fifty (150) feet to the street and to the side and one hundred (100) feet to the rear Lot lines.

(ii) Country Clubs. The parking area for a country club shall be no closer than one hundred fifty (150) feet to a street and to the side and one hundred (100) feet to the rear Lot lines. The country club shall cause all persons using the facilities, including, without

limitation, any persons using such facilities in connection with a special event or tournament, to park on country club property and overflow parking facilities, or if such facilities are inadequate, said country club shall make arrangements to cause persons using its facilities to park at remote areas off country club property and not on the Right-of-Way of any public streets.

(iii) Historic Commercial. The parking area for a historic commercial use shall not be expanded after December 1991.

(c) **Filing of a Plan and Additional Requirements.** Before any permit is issued authorizing five (5) or more designated off-street parking spaces, a plan showing the location and proposed lighting of such off-street parking spaces, together with a Landscaping Plan, shall be filed with the City Manager. Said plans must, in all respects, comply with the provisions of this Zoning Ordinance and the Municipal Code, and all applicable local, state or federal regulations concerning handicapped parking spaces. Such off-street parking spaces shall be designed to contain no more than twenty four (24) parking spaces per parking lot and each parking lot shall be separated from other parking lots by a landscaped area. In addition, a buffer area (including where reasonable, possible, and appropriate, berms to screen the parking spaces from the street and/or adjoining Lots) shall be located along the periphery of all such parking lots.

4.07. Driveways, Carports, and Garages.

(a) **Driveways.** The driveway for each Lot shall comply with the following requirements:

(i) Permit Required. All driveway or parking lot entrances onto any street for a principal Dwelling or principal building must be approved by the City Manager, in consultation with the City Engineer prior to issuance of approval by a building permit, or a separate driveway permit must be obtained if the driveway or parking lot entrance is not being constructed in connection with a permitted Principal Dwelling or principal building.

(ii) Dimensions; Culvert and Headwalls. Minimum width of a driveway shall be eight (8) feet. The minimum length of the culvert under the driveway shall be sixteen (16) feet and the minimum diameter of said culvert shall be eighteen (18) inches. The applicant shall be required to complete installation of the proper size culvert and headwalls, if required, stabilized ditches and finished driveway surface prior to occupancy of any principal Dwelling or principal building.

(iii) Slope. The Slope of the first fifteen (15) feet from the edge of the street pavement or to the ditch line, whichever is greater, shall be either flat or paved with a hard surface. Thereafter, the Slope shall not exceed a positive three percent (3%) grade for the next fifty (50) feet unless paved with a hard surface. Unless otherwise permitted by the Board of Zoning Appeals, the maximum allowable Slope for any driveway will be twenty percent (20%). The driveway shall be constructed to prevent storm water drainage and any portion of gravel or other debris from the driveway from running into the street.

(iv) Paving. All non-residential driveways, parking lots, and sloping residential driveways exceeding twenty percent (20%) slope shall be paved.

(v) Shared Driveways. No driveway shall serve more than two (2) principal Dwellings, provided however, the Board of Zoning Appeals (or the Planning Commission, in the case of a new subdivision) may approve a driveway serving up to four (4) principal Dwellings subject to the following additional requirements:

(1) the approval will not have a material negative impact upon adjoining Lots or Lots in the immediate vicinity;

(2) the easement for the driveway shall be a minimum of twenty-four (24) feet wide;

(3) the minimum width of the driveway shall be not less than ten (10) feet; and

(4) the users of the driveway shall enter into a driveway easement and maintenance agreement which shall be approved by the City Attorney and recorded in the Register's Office of Davidson County, Tennessee, and which shall contain certain language notifying all parties thereto that should the driveway ever be converted to a public or private street, the parties to the easement shall be responsible for upgrading the driveway to the applicable standards for public or private streets and for the cost of such construction upgrading.

(b) Driveways Serving Five or More Houses; Private Streets.

(i) Generally. Any driveway used, or intended to be used, for the service of five (5) or more Dwellings or other Structures (including, but not limited to, Guest Houses and Caretaker Cottages, Accessory Apartments, and non-residential uses) shall be deemed a private street and shall be constructed to the specifications set forth in the Subdivision Regulations.

(ii) Access to public street or road. Each private street system shall have direct access and connection to an existing public highway, street, road, or thoroughfare.

(iii) No Dedication for Public Benefit. The City shall have no obligation to maintain, repair, replace, or accept the dedication of a private street.

(iv) Plat Required. Any new private street shall be shown on a final plat approved by the Planning Commission and recorded in the real property records.

(c) **Driveways within the HP District.** Individual driveways and shared driveways with joint use and maintenance easements shall not exceed the maximum permitted grades specified in this Zoning Ordinance and the Subdivision Regulations. In addition, any retaining wall required for construction of a driveway shall be no more than ten (10) feet as measured from final grade and constructed of structurally sound materials so as to prevent erosion. Multiple retaining walls that are

terraced with adequate separation to allow for the planting of suitable landscaping material for screening the walls shall be permitted. The maximum allowable cut and fill sections for any driveway shall be 20 feet. In addition, the construction of a driveway, utilities or other improvements shall not disturb more than twenty percent (20%) of the area between a structure and the public street or authorized private street providing access to the Structure. Upon completion of a permitted driveway, suitable fill and soil material shall be installed on the disturbed slopes and topsoil with seed and mulch shall be installed so as to establish ground cover.

(d) **Carports.** All carports shall comply with the requirements of this Section:

(i) Orientation. The entrance to a carport shall not face the street on which the Lot is located. In the case of Corner Lots, the entrance to a carport shall not face either street, but shall face the Side Yard or Rear Yard only.

(ii) Knee Wall. Every carport shall include a knee wall of not less than four (4) feet in height on each wall except the entry.

(iii) Detached Carports. Detached carports are prohibited. Each carport shall share at least one (1) common wall with the principal Dwelling.

(iv) Materials. Every carport shall be constructed of materials and colors identical to, or closely compatible with, the color of the principal Dwelling so as to make the carport as visually unobtrusive as possible.

(e) **Garages.** No Garage doors may face the street on which the Lot is located. In the case of Corner Lots, Garage doors shall not face either street, but shall face the Side Yard or Rear Yard only.

4.08. **Retaining Walls and Fences.**

(a) **Retaining Walls.** All retaining walls shall comply with the requirements of this Section:

(i) Engineered Plans. Construction of a retaining wall in excess of three (3) feet shall require engineered plans stamped and sealed by a professional engineer, which plans shall be reviewed and approved by the City Manager, or his designee, prior to issuance of a permit.

(ii) Retaining walls in excess of 10 feet. Retaining walls in excess of ten (10) feet in height as measured from the finished grade on the lower side thereof shall be prohibited.

(iii) Materials to be used. Retaining walls shall be constructed of structurally sound and durable materials and faced with stone, brick, or other suitable materials that blend into the natural terrain.

(iv) Driveways. Any retaining wall required for construction of a driveway shall be structurally sound so as to prevent erosion. Multiple retaining walls that are terraced with adequate separation to allow for the planting of suitable landscaping material for screening the walls shall be permitted.

(b) **Fences**. All Fences shall comply with the requirements of this Section.

(i) Generally.

(1) *Permit Required*. A permit is required prior to construction of any Fence. Each applicant for a Fence permit shall pay the fee required pursuant to the Fee Resolution.

(2) *Measurement of Height*. Fences shall be measured from the finished grade on the lower side thereof.

(3) *Location*. No Fence shall be constructed on or within any street or public Right-of-Way; within any section of a recorded public utility, drainage or detention pond easement; or on private property near an intersection and/or driveway entrance in a manner that creates a visual obstruction or safety hazard for vehicular traffic and pedestrians.

(4) *Support Orientation*. Any exposed support and cross framing for a Fence shall be located on the inside of the Fence and oriented toward the principal portion of the Lot upon which the Fence is erected to serve. The finished side of a Fence shall face the adjacent properties and street.

(5) *Temporary construction sites*. A Fence up to six (6) feet in height may be permitted for safety and security purposes for the duration of a construction project, provided that visibility through the Fence is not obstructed.

(6) *Maintenance*. All Fences shall be maintained in a safe, structurally sound and upright condition, and present a uniform appearance so as not to constitute a hazard, blight or condition of disrepair. Examples of hazards, blight or conditions of disrepair include, but are not limited to: leaning Fences; Fences that are missing slats, parts, or blocks; holes; breaks; rot; cracking or peeling paint; rust; graffiti; or other broken, damaged, or removed material.

(ii) Prohibitions.

(1) Fences made with barbed wire and/or like material and chain link Fences with exposed spike ends are prohibited, except for farm Fences permitted pursuant to Section 4.08(b)(iii)(1).

(2) No privacy Fence, solid Fence, or other Fence shall be constructed such that visibility through the Fence is obstructed; provided, however, that

nothing shall prohibit the construction of a stone or brick Fence in accordance with the other requirements of this Section.

(iii) Within Non-Residential Zoning Districts. Fences are permitted pursuant to the Landscaping Plan requirements and other provisions of Section 2.03.

(iv) Within All Residential Zoning Districts.

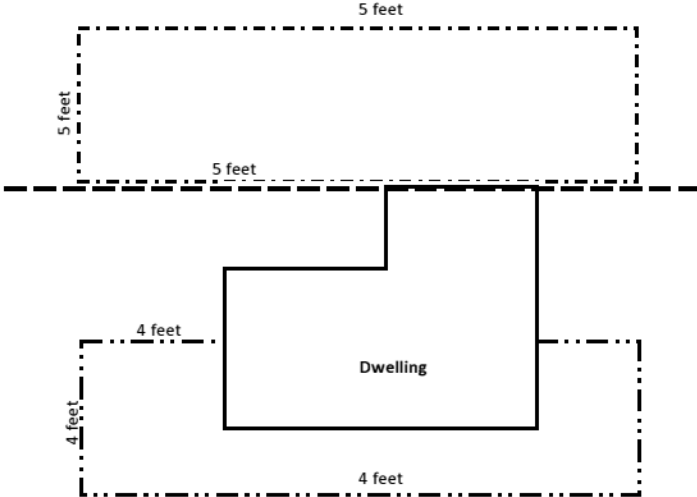
(1) Where livestock are permitted pursuant to this Zoning Ordinance, farm fences (wire, barbed wire, other appropriate wire products, stone or wood rail) may be erected. No razor wire or similar product shall be installed above the top of any Fence.

(2) A Fence not more than four (4) feet in height may be located at any location on a Lot, except as is required for health and safety purposes by the edition of the International Residential Code as adopted by the City.

(3) A Fence may be constructed between the side Lot line and the Dwelling, provided that (i) the Fence shall not exceed 4 feet in height, and (ii) the Fence connects to the rear corner of the Dwelling on the Lot, or an offset to the rear of such corner sufficient, in the opinion of the City Manager, or his designee, to provide a reasonable turning area for automobiles backing out of a garage located inside the rear corner of the Dwelling.

(4) A Fence not more than 5 feet in height may be located anywhere in a Side Yard or Rear Yard as shown in Figure 4.08(b) below, provided that the Fence shall extend no closer to the front Lot line than its intersection with a line from it to the rear corner of the Dwelling, located and/or offset as required above.

Figure 4.08(b)



(v) Within the E1A Zoning District and EA Zoning District. Within the E1A Zoning District and the EA Zoning District, a Fence not to exceed 6 feet in height may be constructed on the front Lot line, provided that it is constructed such that visibility through the Fence is not obstructed.

(vi) Chain link fences.

(1) *Generally Prohibited.* Chain link or woven wire Fences are prohibited (a) in Front Yards, (b) facing a Front Yard or parallel to a front Lot line, and (c) where visible from any street Right of Way.

(2) *Conditionally Permitted.* Except for farm Fences as permitted herein, chain link or woven wire Fences are conditionally permitted provided that the following conditions are met:

(a) the Fence must be coated with a black, dark green or dark brown coating made of polymer or similar material;

(b) the Fence shall not exceed four (4) feet in height regardless of its location;

(c) the Yard between the Fence and the adjacent Lot must be landscaped such that not less than fifty percent (50%) of the height of the Fence, as measured from the finished grade, is obscured by landscaping; and

(d) a permit for the Fence has been issued by the City Manager after review of a Landscaping Plan illustrating compliance with this Section.

4.09. **Lighting.** To encourage lighting practices and systems which will minimize light pollution, glare and light trespass; control excessive lighting levels; conserve energy and resources while maintaining night-time safety, utility, security and productivity; and curtail the degradation of the night-time visual environment, the following requirements shall apply:

(a) **Residential Lighting Standards.** Any eve lights or other lighting used to illuminate any building, Structure, off-street parking areas, athletic court, athletic field, or any landscape feature located in any residential zoning district shall not be directed toward adjacent Lots in such a way as to create a nuisance and no such lighting shall exceed one-half (1/2) footcandle at any point on or above the property line of the Lot.

(b) **Non-Residential Lighting Standards.** Any lighting used on any Lot in any non-residential zoning district shall comply with the following requirements:

(i) General Requirements.

(1) Outdoor floodlighting by flood light projection above the horizontal plane is prohibited.

(2) All light fixtures that are required to be shielded shall be installed in such a manner that the shielding is effective as described in the definitions for Fully and Partially Shielded Fixtures.

(3) All light fixtures, except City street lights, shall be located, aimed or shielded so as to minimize stray light trespassing across Lot boundaries and shall emit no more than one-tenth (0.1) vertical footcandle of light as measured at the line of sight at any location on an adjacent property.

(4) Search lights, laser source lights, or any similar high-intensity light shall not be permitted, except in emergencies by police and fire personnel or at their direction.

(5) Lighting may continue after 9:00 p.m. only if and for so long as the illuminated area is in active use.

(6) Illumination for outdoor recreation must conform to the shielding requirements of Table 4.09(b). Specifically, tennis, volleyball, racquetball, handball courts and other athletic courts or fields and Swimming Pools must utilize Fully Shielded Fixtures.

(7) For all new buildings, Structures, or additions thereto where an engineer or architect is required, the developer shall verify in writing to the City that all outdoor lighting was installed in accordance with the approved plans.

(8) No outdoor internally illuminated signs shall be permitted. Externally illuminated signs shall be lighted using fixtures mounted at the top of the sign and aimed downward.

(9) The use of fixtures that are not aimed at zero degrees (straight down), e.g., floodlights and spotlights, is not allowed except as expressly permitted by the City based on the application and the acceptable control of glare, light trespass and sky glow.

(10) Flashing lights, except for seasonal decorations, are prohibited.

(11) Lighting fixtures shall not be mounted in excess of twenty (20) feet above finished grade, except as specifically approved by the City.

(12) All illumination intensities and uniformities shall be in accordance with the recommended practices of the Illuminating Engineering Society of North America (IESNA).

(ii) New Developments, Buildings, Dwellings, Structures and Additions. All new developments, buildings, Structures, or additions thereto of twenty-five (25%) percent or more in terms of gross Floor Area, seating capacity, or other units of measurement specified

herein, either with a single addition or cumulative additions subsequent to the Controlling Date, shall meet the requirements of this Section 4.09 for the entire Lot. For all additions of less than twenty-five (25%) percent cumulative, the applicant shall only have to meet the requirements of this Section 4.09 for any new outdoor lighting provided. However, for all lighting for off-street parking spaces requiring a plan pursuant to Section 4.06(c) hereof, such lighting shall meet the requirements of this Section 4.09 for the entire Lot.

(iii) Approved Materials and Methods of Construction or Installation/Operation.

(1) Preferred Source - High-pressure Sodium (HPS) lamps are the preferred illumination source throughout the city; their use is to be encouraged, when not required, for outdoor illumination whenever its use would not be detrimental to the use of the Lot. Low-pressure Sodium (LPS) lamps are an acceptable alternative to HPS lamps.

(2) The provisions of this Section 4.09 are not intended to prevent the use of any design, material or method of installation or operation not specifically prescribed herein, provided any such alternate has been approved by the City Manager and City Engineer. The City Manager may approve any such proposed alternate provided the City Manager, after consultation with the City Engineer, makes a finding that it:

- (a) Provides at least approximate equivalence to the applicable specific requirements of this Section 4.09; and
- (b) Is otherwise satisfactory and complies with the intent of this Section 4.09.

Table 4.09(b)
Shielding Requirements

<u>Fixture Lamp Type</u>	<u>Shielding Requirement</u>
Low Pressure Sodium ²²	Partially
High Pressure Sodium	Fully
Metal Halide ²³	Prohibited
Fluorescent ²⁴	Fully
Incandescent greater than 160 watt	Fully
Incandescent between 60 and 160 watt	Partially
Incandescent of 60 watt or less	None

²² This is the preferred light source to minimize undesirable light emission into the night sky. Fully shielded fixtures are preferred but not required.

²³ Fully shielded and installed metal halide fixtures shall be allowed for applications where the designing engineer deems that color rendering is critical. Metal halide fixture lamps shall be filtered. “Filtered” means any outdoor light fixture which has a glass, acrylic, or translucent enclosure of the light source (quartz glass does not meet this requirement).

²⁴ Warm white and natural lamps are preferred to minimize detrimental effects.

Light source less than 1000 lumens that is not within any category above	None
Other sources	As approved by City Manager

(iv) Submission of Plans and Evidence of Compliance. The applicant for any permit required in connection with proposed installation of outdoor lighting fixtures shall submit evidence that the outdoor lighting fixtures will comply with the provisions of this Section. Upon application for the required permit, the submission shall contain but shall not necessarily be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in this Zoning Ordinance or as required by the City Manager:

- (1) plans indicating the location the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;
- (2) description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings;
- (3) photometric data, such as that furnished by manufacturers or similar showing the angle of cut off or light emissions;
- (4) pole foundation details;
- (5) 10' x 10' footcandle grid plots for multiple-fixture installations and an isocandle plot for single fixture installations;
- (6) proposed minimum, average and maximum levels and uniformity ratios for multiple-fixture installations;
- (7) description of the method of control of the fixtures, e.g., photocell, timer or motion sensor; and
- (8) proposed hours of operation.

The lighting plan and all required data shall be sufficiently complete to enable the City Manager to determine that the lighting will comply with the requirements of this Section 4.09. If the lighting plan and required data cannot enable this determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports or tests as will do so provided that any such tests shall have been performed and certified by a recognized testing laboratory.

(c) **Street Lights.** The Board of Commissioners shall have the authority to determine, in its sole discretion, whether there shall be street lights on any public or private street. Furthermore, the Board of Commissioners shall have the authority to approve, in its sole discretion, the number and location of street lights in any location. All street lights shall be installed utilizing fixtures

approved by Nashville Electric Service and the Planning Commission. The Board of Commissioners shall determine and allocate the responsibility for payment for installation and maintenance of all street lights.

4.10. **Signs.**

(a) **Generally.**

(i) All Signs shall conform to the standards set forth in Table 4.10(b) and Table 4.10(c) and shall be maintained in a safe, orderly and presentable manner by the holder of the sign permit.

(ii) No Sign, other than Real Estate, Security Signs and Political Signs shall be erected without a sign permit. No Sign of any nature whatsoever shall be placed within the Right-of-Way. No Sign shall be illuminated except as provided in Section 4.09.

(iii) Any real estate broker licensed by the State of Tennessee and who maintains an office in such broker's residence and who is obligated pursuant to T.C.A. § 62-13-309(b) to maintain a Sign on the outside of the broker's residence shall be permitted to attach a personal identification sign in satisfaction of state law (a "**Broker Sign**"). Such personal identification sign must be affixed to the residence and shall not exceed one (1) square foot in size.

(iv) The City Manager shall inform the sign permit holder when, in the opinion of the City Manager, the Sign or Signs need repair or maintenance. If said repair or maintenance is not completed within thirty (30) days, the City Manager or the City Manager's designee may have the Sign or Signs removed.

(v) Any Structure which primarily serves the purpose of supporting or displaying any Sign shall be included in calculating the size and height requirements set forth in Table 4.10(b) and Table 4.10(c).

(vi) The City Manager, or his designee, is hereby authorized to remove, or cause to be removed, any sign within the city that does not comply with the requirements of this Section. Any signs removed by the City Manager or his designee shall be disposed of; and, the city will not be responsible for damage to any sign so removed.

(b) **Permanent Sign Standards.** All signs requiring permanent attachment shall comply with the following standards:

Table 4.10(b)
Permanent Sign Standards

<u>Use</u>	<u>Type</u>	<u>Size (sq. ft.)</u>	<u>Height (ft.)</u>	<u>Number Per Street</u>
Subdivision	Ground	25	6	1
Institutional Use²⁵	Ground	25	6	1
Country Club	Ground	12	5	1
Security	Ground or attached to mailbox	1	3	1
Historic Commercial	Wall	12	1	1
Any Other Nonresidential Sign	Ground	12	5	1
Broker Sign	Attached to Dwelling	1	1	1

(a) **Temporary Sign Standards.** All signs not requiring permanent attachment shall comply with the following standards:

Table 4.10(c)
Temporary Sign Standards

<u>Use</u>	<u>Type</u>	<u>Size (sq. ft.)</u>	<u>Height (ft.)</u>	<u>Number Per Street Frontage</u>
Real Estate Sign	Ground	25	5	1
Subdivision	Ground	25	6	2
Special Events	Ground	25	6	1
Political Sign	Ground	16	5	1
Construction Sign	Ground	8	5	1

(i) These temporary sign standards shall apply in all zoning districts.

(ii) Real Estate Signs must be removed within 7 days from any Lot upon termination of the listing or closing of a sale of the Lot for which the Real Estate Sign was erected. If a Real Estate Sign is not removed within such time, a penalty of \$25 per day will be due to the City from the realty company or the individual whose name is on the sign, beginning on the 8th day after the termination of the listing or closing.

(iii) On the day property is open for inspection, a separate “Open House” Sign may be placed beside the Real Estate Sign. Directional Signs not exceeding two (2) square feet in size nor more than two (2) feet in height above the ground may be placed at street corners

²⁵ Sign shall be located no closer than 20 feet to Lot line.

on weekends (4:00 p.m. Friday - 8:00 p.m. Sunday or 8:00 p.m. if the Monday is a national holiday). No Directional Signs for property located outside of the City are permitted.

(iv) Temporary Subdivision Signs may remain in place for twelve (12) months, or until permanent entry is completed, whichever occurs first.

(v) Special Event Signs may be installed no earlier than one week prior to the event and must be removed within two (2) days after the event.

(vi) Political Signs are to be erected no sooner than ninety (90) days prior to an election and shall be removed within thirty (30) days after the election.

(vii) Construction Signs shall not be erected sooner than ten (10) days prior to the commencement of construction and shall be removed within five (5) days after completion of construction.

4.11. **Visibility At Street Intersections**. To ensure adequate vehicle sight distance at street intersections, no fence, planting, wall, sign, structure or other obstruction may be erected or maintained in excess of two (2) feet in height within two hundred (200) feet of the corner of any intersection (as the lines of the Right-of-Way are extended to create such a corner) on residential collector streets or within two hundred seventy-five (275) feet on all scenic arterial and arterial streets.

ARTICLE V. LANDSCAPING

5.01. Purpose and Intent. It is the purpose of this section to promote and protect the public health, safety and general welfare by providing for the planting, maintenance, and preservation of trees, shrubs and other plants within the city. The intent of this section is to promote this purpose by:

(a) Ensuring the planting, proper installation, maintenance, and survival of trees, shrubs, and other plants;

(b) Reducing storm water impacts and the costs associated therewith while also mitigating against erosion and sedimentation through the establishment of root systems and appropriate groundcovers intended to protect and restore soils and land denuded as a result of construction, grading, or other land disturbing activity;

(c) Enhancing the appearance and visual quality of the built landscape through the use of an appropriate variety of plant types, sizes, species, and placement, while also providing visual screening of service areas; and

(d) Protect and enhance property values and quality of life, softening of the built environment through plantings, and integration of existing vegetation.

5.02. Applicability of Landscaping Standards. These provisions of this Section shall apply to (i) all applications to the Board of Zoning Appeals for variances, special exceptions, conditional uses, or other relief from the Zoning Ordinance, (ii) all tree replacement required by Section 6.05 of this Ordinance, and (iii) any land disturbance activity that requires a permit pursuant to the Storm Water Management Ordinance.

5.03. Landscaping Plan Requirements.

(a) **Requests to the Board of Zoning Appeals.** All applications to the Board of Zoning Appeals for variances, special exceptions, conditional uses, or other relief from the Zoning Ordinance shall be accompanied by a Landscaping Plan to be reviewed and approved by the Board of Zoning Appeals. Said Landscaping Plan must minimize the loss of grasses, shrubbery, and landscaping and provide screening of adjacent properties.

(b) **Tree Replacement and Grading Permits.** When a property owner must replace trees pursuant to Section 6.05 of this Ordinance or applies for a grading permit pursuant to the Storm Water Management Ordinance, the applicant shall submit a Landscaping Plan together with all other materials required for the applicable permit. The Landscaping Plan shall be reviewed and approved by the City Manager, or his designee, to ensure that the proposed landscaping will minimize the loss of trees, grasses, shrubbery, and landscaping pursuant to the grant of the permit.

5.04. Adoption of Approved Landscaping Plan. Whenever a Landscaping Plan has been required and approved hereunder, the terms of such approved Landscaping Plan shall be incorporated into, and become a requirement of, the applicant's building or grading permit.

ARTICLE VI. RESOURCE PROTECTION STANDARDS

6.01. **Purpose.** The general purpose of this Article is to establish standards for the protection of natural and historical resources within Forest Hills from the potential harmful effects associated with development. Furthermore, it is also the general purpose of this Article to implement the resource protection recommendations of the Comprehensive Plan. In addition to these general purposes, the following are specific purpose statements for the protection of certain resources:

(a) **Floodways and Floodplains, Surface Waters, and Wet Weather Conveyance Protection.** Areas of the City are subject to periodic inundation that may result in loss of life and property, health and safety hazards, disruption of governmental services, extraordinary public expenditures for flood prevention and relief, all of which adversely affect the public health, safety and general welfare. Furthermore, the City and its neighbors benefit from ponds, streams, and creeks, all of which provide scenic beauty which, if protected, enhance the quality of life and the quality of the environment for all residents of the City. It is the purpose and intent of this Section to promote the public health, safety and general welfare by regulating uses that are vulnerable to water or erosion hazards, uses that increase the volume and quantity of storm water flow, and uses that degrade water quality.

(b) **Steep Slope and Slippage Soils Protection.** The purpose of the steep slope and slippage soils protection standards is to guide development on hilltops, ridgetops, Steep Slopes and Slippage Soils to protect natural areas and features and to locate development, where possible, in areas that do not have severe environmental limitations. It is the intent of these standards to (i) protect the hillsides and hilltops of the city because development thereon increases runoff, erosion, sedimentation, and the potential for slope destabilization; (ii) undertake development in a manner that protects life and property from hazards due to slope, unstable and erodible soils, earth movement, and other geologic and hydrologic hazards; (iii) preserve the visual quality of Steep Slope areas, which are valuable natural and economic resources; and (iv) limit development on Slippage Soils where there is a possibility of substantial property damage.

(c) **Woodland And Tree Protection.** The purpose of the woodland and tree protection standards is to limit the destruction of and ensure the survival of trees. The maintenance of existing trees and replanting of new trees is necessary to promote the value of property and the quality of life of its citizens; to ensure the stabilization of soil by prevention of erosion; to reduce storm water runoff and the costs associated with it; to replenish the groundwater supply; and to cleanse the air of harmful pollutants.

(d) **Historic And Cultural Resource Protection.** The purpose of the historic and cultural resource protection standards is to protect the historic and cultural resources of the City that are an integral part of the City's character and charm.

6.02. Floodways And Floodplains; Surface Waters; And Wet Weather Conveyances.

(a) **Applicability.** The provisions of this Section shall apply to all Lots where Floodways, Floodplains, Surface Waters, and Wet Weather Conveyances exist.

(b) **Technical Standards.**

(i) **Water Quality Buffer Areas.** Wherever a Water Quality Buffer Area is required by this Section, the Water Quality Buffer Area shall be established, protected, and maintained as follows:

(1) The buffer shall measure 25 feet perpendicular from the top of bank on each side of a Floodway, Floodplain, Wet Weather Conveyance and any Surface Water that serves as a channel or conduit of water; and 50 feet around the perimeter of a pond or lake.

(2) The Water Quality Buffer Area shall remain undisturbed except for the following disturbances:

(a) Limited disturbances to remove and/or plant trees or vegetation, as required to maintain the overall health of vegetation in the buffer area, including, but not limited to, routine mowing and trimming of grass, weeds, and limbs.

(b) Removal of individual trees that are in danger of falling, causing damage to Dwellings or other Structures, are dead or diseased, or have been heavily damaged by storms. The root wad or stump should be left in place, where feasible, to maintain soil stability.

(c) Removal of trees or plants listed in the current edition of Invasive Exotic Pest Plants, published by the Tennessee Exotic Pest Plant Council.

(d) Disturbances necessary for the construction of utility access areas and approved stream crossings as long as the crossings are perpendicular or as near to perpendicular as possible to the channel.

(e) Disturbances as required to establish and/or restore buffer areas.

(3) Any approved disturbance of a Water Quality Buffer Area shall be revegetated in kind and/or enhanced subject to the requirements of § 14-506(2)(a) of the Municipal Code and approval of the City Manager.

(ii) **Floodways and Floodplains.**

(1) Generally. A Water Quality Buffer Area shall be established, protected, and maintained along the edges of all Floodways and Floodplains. The Water Quality Buffer Area shall measure twenty-five (25) feet perpendicular from each edge of the Floodway or Floodplain.

(2) Floodways. Construction within a Floodway is expressly prohibited.

(3) Floodplains. Construction of new Dwellings or other Structures within a Floodplain is generally prohibited. If a Floodplain covers a Lot of record as of the Controlling Date, to the extent that an existing Structure cannot be otherwise altered,

expanded or replaced, then any construction shall be performed in strict accordance with the requirements of the FP District requirements in Section 2.05 of this Ordinance and Title 14, Chapter 3 of the Municipal Code.

(iii) **Surface Waters and Wet Weather Conveyances.** A Water Quality Buffer Area shall be established, protected, and maintained along the edges of all Surface Waters and Wet Weather Conveyances. The Water Quality Buffer Area shall measure twenty-five (25) feet perpendicular from the top of bank on each side of a Wet Weather Conveyance and any Surface Water that serves as a channel or conduit of water; and fifty (50) feet around the perimeter of a pond or lake.

(c) **Development Standards.**

(i) All construction, land disturbance, or grading on a Lot where Floodways, Floodplains, Surface Waters or Wet Weather Conveyances are located shall require a specific site plan prepared by a duly licensed professional engineer. The site plan shall demonstrate (i) full and complete compliance with the requirements of the Storm Water Management Ordinance, and (ii) that the planned construction, land disturbance, or grading will not result in either filling of the Floodplain or Floodway, or the degradation of Surface Waters or Wet Weather Conveyances. Notwithstanding any requirements of Section 14-504(1) of the Municipal Code to the contrary, if in the opinion of the City Manager, or his designee, the applicant has not provided reasonably sufficient information to demonstrate compliance with the previous sentence, the City Manager may require additional information or studies prior to issuance of a permit, including, but not limited to, a storm water management plan or an erosion prevention and sediment control plan.

(ii) As a condition to receiving any permit (for building, grading or otherwise) the applicant shall adopt the recommendations of the professional engineer who provided the site plan, which recommendations shall be incorporated into the terms of the applicable permit.

6.03. **Steep Slopes, Hillside Protection and Slippage Soils.**

(a) **Applicability.** Unless exempted from compliance pursuant to Section 2.06(c)(ii), construction within the HP District and on Slippage Soils shall comply with the following standards.

(b) **Technical Standards.** Where the provisions of this Section are applicable, the following technical standards shall apply:

(i) **Maximum Allowable Area of Disturbance.** Not more than ten percent (10%) of the total acreage of that portion of the Lot encumbered by Steep Slopes or Slippage Soils may be disturbed.

(ii) **Footings.** All buildings, Dwellings, Structures or walls, whether for retention or diversion, shall have their foundations installed with footings dug to bedrock or tied to bedrock with appropriate piers if soils are greater than 5 feet in depth.

(iii) **Diversion Walls; Structural Strength.** The uphill side of all buildings, Dwellings or Structures shall be protected from slide damage by construction of diversion walls

or increased structural strength. The Geotechnical Study to be provided pursuant to this Section shall certify that the building, dwelling, structure or diversion wall is designed to resist a slippage equal to the depth of soil for a distance twenty feet (20') uphill of the Structure.

(iv) Drainage.

(1) On the uphill side of areas within the HP District or with Slippage Soils, all runoff from roofs, driveways and other impervious areas shall be run into a drainage system that intercepts the storm water around the area and conveys them into properly constructed channels.

(2) Any building, Dwelling or Structure, either proposed or existing, within the HP District or with Slippage Soils shall have drainage protection installed that does not increase drainage to adjoining properties.

(v) Vegetation. Construction work shall minimize removal of vegetation through industry standard construction practices.

(c) **Development Standards.**

(i) Geotechnical Study. As part of the building permit application, the applicant shall submit to the City a Geotechnical Study that evaluates site characteristics and recommends design and construction methods that ensure proper and structurally sound soil conditions during and after construction. As a condition to receiving a permit, the applicant shall be obligated to adopt the recommendations of such Geotechnical Study. When a building or land disturbance permit does not require issuance of a use and occupancy permit upon completion of the project, the applicant shall provide a performance agreement and performance bond to secure such agreement, if so required by the City Manager in his reasonable discretion. The City Manager or his designee may require additional or special studies where warranted.

(ii) Supervision of Work. Construction work shall be supervised by a duly licensed geotechnical engineer to the extent that he or she can issue a statement of compliance with the approved plans at the conclusion of all construction work outlined in the plan. No Certificate of Occupancy, if applicable, shall be issued until this statement has been received by the City Manager.

(iii) Board of Zoning Appeals Approval. Board of Zoning Appeals approval shall be required prior to (1) the construction or erection of any new residential Dwelling or any other new Structure that requires a building permit, and (2) any land disturbance activity that requires a permit pursuant to the Storm Water Management Ordinance, unless exempted by the terms therein. As part of its application to the Board of Zoning Appeals, the applicant shall provide the Geotechnical Study required pursuant to Section 6.03(c) and all other materials requested by the Board of Zoning Appeals pursuant to its adopted rules and regulations.

(iv) Certificate of occupancy. Prior to completion of a Structure within the HP District or with Slippage Soils and issuance of a certificate of occupancy, an inspection shall

be conducted by the responsible city official(s), to determine if the improvements have been completed according to the approved site plan and/or Geotechnical Study. If at any time during construction it is determined that the work being performed is not in compliance with the requirements of this Section and the approved site plan, a stop work order shall be issued immediately. The order shall remain in effect until the work is brought into compliance with this Zoning Ordinance.

6.04. RESERVED.

6.05. Woodland And Tree Protection.

(a) Applicability.

(i) The standards of this Section shall apply to (i) the approval of any newly platted Lot, (ii) the construction or erection of any new residential Dwelling or any other Structure that requires a building permit, and (iii) any land disturbance activity requiring a permit pursuant to the Storm Water Management Ordinance, unless exempted in accordance with Section 6.05(b).

(1) Removal of existing vegetation shall not occur on a Lot subject to the terms of this Section until such time as a permit has been issued.

(2) In the event vegetation requiring protection pursuant to this Section is removed from a site within three (3) years prior to application for construction or development, such development shall be subject to the re-vegetation requirements of Section 6.05(d).

(ii) **Exemptions.** The following development and construction activities and types of vegetation are exempt from the standards of this Section:

(1) The removal of dead or naturally fallen trees or vegetation.

(2) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, or for the purpose of performing necessary field survey work.

(3) The removal of vegetation in accordance with a permit approved prior to the Controlling Date.

(4) The actions of public and private utility companies within their utility easements.

(5) Removal of trees listed in the current edition of Invasive Exotic Pest Plants, published by the Tennessee Exotic Pest Plant Council.

(b) Technical Standards.

(i) Existing Tree Canopy Retention Standards. Table 6.05(b) establishes the percentage of trees on a Lot that shall be retained and protected, based on the percentage of the Lot covered by trees.

Table 6.05(b)
Tree Retention Standards

<u>Existing Trees (as a percent of the Lot size)</u>	<u>Minimum Percentage of Existing Trees that Shall be Retained (as a percent of the total pre-development tree canopy cover)</u>
91-100%	48%
81-90%	51%
71-80%	54%
61-70%	57%
51-60%	60%
41-50%	63%
31-40%	66%
21-30%	69%
11-20%	72%
10% or less	75%

(i) Tree Replacement. If an applicant is unable to retain the trees required pursuant to Table 6.05(b), as a condition of receiving a permit, the applicant shall be obligated to replace the lost trees in a manner sufficient that when the replacement trees reach full maturity, the Lot shall be in compliance with this Section.

(c) **Development Standards.**

(i) Retention of Existing Trees.

(1) *Tree Inventory Required.* Prior to beginning any tree clearing, development work, or land disturbing activity to which the standards of this Section are applicable, the applicant shall prepare and submit an inventory of all trees on the Lot, subject to the following requirements:

(a) *Generally.* (1) The tree inventory shall be prepared at the same scale as a Landscaping Plan and shall identify all trees on the Lot and their approximate lot coverage, and (2) the inventory shall depict all trees to be retained in accordance with this Section.

(b) *Professionally Prepared; Aerial Photography.* Tree inventories may be prepared by a landscape architect, surveyor, arborist, forester, or engineer registered with the State; or aerial photographs, coupled with site photography, may be substituted for the inventory if the photography provides adequate detail in the discretion of the City Manager to assess compliance with this Section. Said aerial photography shall be no older than the most recent aerial photography maintained by the City.

(2) *Review by City.* Any tree inventory prepared by a landscape architect, surveyor, arborist, forester, or engineer registered with the State and submitted

to demonstrate compliance with Table 6.05(b) shall be deemed accurate with respect to the calculation of existing trees as a percentage of Lot size. A tree inventory submitted by any other party or resident shall be reviewed by the City Manager, or his designee, to assess compliance with Table 6.05(b) with respect to the calculation of existing trees as a percentage of Lot size.

(3) *Existing Tree Protection During Construction.* During development, the applicant shall be responsible for the erection of barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

(d) **Removal of Protected Trees.** In cases where tree clearing, development work, land disturbance as part of construction, or intentional damage to trees occurs in violation of the standards of this Section, the following shall apply:

(i) Replanting shall be required at a rate of 80 trees for each acre disturbed in excess of the tree retention standards defined herein or an inch-by-inch caliper replacement.

(ii) Replacement trees shall have a minimum DBH of two inches at the time planted.

(iii) Replacement trees shall be maintained through an establishment period of at least three years. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees, and the establishment period shall reset.

6.06. **Historic And Cultural Resource Protection.**

(a) **Reserved.**

(b) **Protection Standards For Stonewalls, Cemeteries, and Archaeological sites.**

No new building or addition shall be located within twenty-five (25) feet of (i) historic, dry-stack stonewalls, (ii) cemeteries, (iii) archaeological sites, or (iv) vestiges of early human habitation as shown on that certain survey of stonewalls, cemeteries and archaeological sites maintained by the city.

ARTICLE VII. NON-CONFORMITIES

7.01. **Purpose.** All buildings, Dwellings, Structures, Lots and uses governed by other provisions of this Zoning Ordinance and the specific zoning districts established herein shall continue to be governed by said provisions. A building, Dwelling, Structure, Lot or use for which a variance, permit or special exception has been granted with respect to provisions of this Zoning Ordinance not governed by this Article VI, shall not be deemed Nonconforming and shall continue to be governed by those other relevant provisions of this Zoning Ordinance. All other buildings, Dwellings, Structures, Lots and uses in existence on the Controlling Date, which do not conform to the provisions of this Zoning Ordinance and/or the provisions of the zoning district wherein the building, Dwelling, Structure, Lot or use is located, shall be deemed Nonconforming and shall be governed by the provisions of this Article.

7.02. **Nonconforming Buildings, Dwellings And Structures.**

(a) Any Nonconforming building, Dwelling or Structure existing on the Controlling Date may be continued in the form of its existence on the Controlling Date.

(b) If any Nonconforming building, Dwelling or Structure is abandoned for a continuous period of twelve (12) months, then its use and occupancy shall not be reestablished and the owner of the Lot where the abandoned building, Dwelling or Structure is located shall remove same from said Lot within a reasonable period of time, not to exceed six (6) months after the date of the end of the continuous abandonment; provided however, within said six (6) month period, said Lot owner may apply to the City for a new building permit, in accordance with Article VIII hereof, to renovate and restore said abandoned building, Dwelling or Structure, provided further however, said renovation and restoration shall comply in all respects with the bulk standards, setbacks, building size, height requirements, coverage requirements and all other standards of the applicable zoning district. In the event the said Lot owner applies to the City for a new building permit, then the City Manager shall refer the building permit application to the Board of Zoning Appeals for review and approval.

(c) As a matter of right, the owner of any Lot located anywhere in the City, upon which a Nonconforming building, Dwelling or Structure is located and in use, may change, alter or expand the said building, Dwelling or Structure, provided said building, Dwelling or Structure, after such change, alteration or expansion, shall conform in every respect with the bulk standards, setbacks, building size, height requirements, coverage requirements and all other standards of the zoning district in which it is located. Also, as a matter of right, a Nonconforming building, Dwelling or Structure may be altered within the confines of the outer walls of the building, Dwelling or Structure by rearranging rooms, moving interior walls and making other such physical alterations to the interior of the building, Dwelling or Structure.

(d) Except as set forth in Section 7.02(c) above, in the event the owner of any Lot wishes to alter, change or expand any Nonconforming building, Dwelling or Structure, said owner shall apply to the City for a building permit for the alteration, change or expansion of same and the City Manager shall refer the building permit application to the Board of Zoning Appeals.

(e) Whenever a Nonconforming building, Dwelling or Structure has been changed to a conforming building, Dwelling or Structure, it shall not thereafter be changed to a Nonconforming building, Dwelling or Structure.

(f) If a Nonconforming building, Dwelling or Structure is damaged by fire, explosion, flood or Act of God by two-thirds (2/3) or more of its fair market value, a new building, Dwelling or Structure may be built on the Lot if built to meet all bulk standards and other requirements of the zoning district in which the building, Dwelling or Structure is located, provided however, that if such a damaged or destroyed building, Dwelling or Structure is located in the Floodplain it may only be rebuilt if (i) it meets the minimum bulk standards of the district and (ii) it meets all the Resource Protection Standards set forth in Article VI. If the Dwelling is located in the Floodway it can be rebuilt upon or within the existing foundation limits provided the lowest Floor elevation must be three (3) feet above the Base Flood elevation.

(g) If a Nonconforming building, Dwelling or Structure is damaged by fire, explosion, flood or Act of God to the extent of less than two-thirds (2/3) of its fair market value it may be reconstructed and used as before any such calamity. Such reconstruction shall be commenced within twelve (12) months of such calamity and shall be diligently prosecuted to its completion.

(h) In the event that there is a dispute as to the extent of the damage to the fair value of the building, Dwelling or Structure, these values shall be determined by the average of the estimates of damage and valuation based upon the cost of restoration as furnished by three (3) independent qualified contractors: one of whom shall be selected by the owner; one of whom shall be selected by the Board of Zoning Appeals; the third shall be selected by the first two mentioned contractors. Such estimates and valuations shall be independent of the value of the land on which such Nonconforming building, Dwelling or Structure is located.

7.03. **Nonconforming Lots.**

(a) Any Lot of record, by deed or plat, as of the Controlling Date having less area than that required by the terms of this Zoning Ordinance, may be used as a building Lot.

(b) Lots of record as of the Controlling Date having a minimum area of one (1) acre or those Lots approved under the Residential A1 and A1P zoning previously repealed on April 9, 1987 shall all be considered conforming Lots in terms of their area. Where the subdivision plats show Front, Side, and Rear Yard lines, those lines shall regulate the development of those Lots rather than the standards set forth in Article IV of this Zoning Ordinance. Where no Yard lines are shown on the subdivision plat, then the standards set forth on Table 4.02 for the NC1 and NC2 One-Family Dwelling uses shall control and the minimum Front Yard set back shall be ninety (90) feet.

7.04. **Nonconforming Uses.**

(a) Any Nonconforming use existing on the Controlling Date may be continued in the form of its existence on the Controlling Date.

(b) No Nonconforming use can be expanded or extended beyond the Lot or land upon which said use was located as of the Controlling Date.

(c) If any Nonconforming use is abandoned for a period of more than twelve (12) months, it may not be reestablished under any circumstance.

(d) No Nonconforming use can be changed to a different Nonconforming use.

(e) In the event the owner of any Lot wishes to expand the same type of Nonconforming use located upon any Lot, including but not limited to a recreational club use or radio or television broadcast tower use, then said owner shall apply to the City for all necessary and appropriate permits, in accordance with Article IX hereof, and the City Manager shall submit the permit application or applications to the Board of Zoning Appeals.

7.05. **Specific Limitations On The Term “Expand” And The Power And Authority Of The Board Of Zoning Appeals.** The term “expand” as used in this Article VIII shall never be interpreted by the Board of Zoning Appeals or by any applicant or owner (an “applicant”) of any Nonconforming building, Dwelling, Structure or use (herein a “nonconformity”) as vesting in any said applicant any absolute right of any nature whatsoever. By filing an application to expand a nonconformity, said applicant shall be deemed to have waived any such claim, and the applicant shall at all times be subject to the final determination of the Board of Zoning Appeals, and the criteria and

limitations set forth herein on which the Board of Zoning Appeals may in its sole and absolute discretion approve or deny any application to expand any nonconformity. In addition, the Board of Zoning Appeals may condition its approval upon the applicant's compliance with conditions reasonably necessary to screen adjacent Lots and the surrounding neighborhood from the nonconformity and to protect the public health, safety, and general welfare. If the Board of Zoning Appeals conditions its approval upon certain conditions precedent, the Board shall make a factual finding in writing that there is a reasonable relationship between the required conditions and the effects of the proposed expansion. The determination of the Board of Zoning Appeals to approve or deny any such application and any conditions to any approval to expand a nonconformity shall be final.

7.06. **Standards and Considerations to be Employed by Board of Zoning Appeals.**

Whenever the City Manager shall refer a building permit application to the Board of Zoning Appeals for review and approval, the Board of Zoning Appeals which may, although it is not required to do so, the matter being within the sole and exclusive discretion of the Board of Zoning Appeals, grant or deny the application or applications depending upon the Board's analysis of the application or applications, based upon the following standards and conditions and in accordance with the Rules, Regulations and Procedures of the Board of Zoning Appeals, as such may be adopted from time to time:

- (i) Size, topography and elevation of the Lot;
- (ii) Location of any building, Dwelling, Structure, parking area or other use on the Lot;
- (iii) The height, bulk and composition of any building, Dwelling, Structure, parking area or other use on the Lot;
- (iv) The proportionality of any building, Dwelling, Structure, parking area or other use to any adjacent building, Dwelling, Structure, parking area or other use on any adjoining Lots in the immediate vicinity;
- (v) The visual impact on adjoining Lots or on Lots in the immediate vicinity;
and
- (vi) A determination that the altered, changed or expanded use is in the best interest of, and promotes the public health, safety, convenience, order, prosperity and general welfare of the City and of the specific area in which the use is located.

ARTICLE VIII. ADMINISTRATION.

8.01. **Purpose.** The City has been and is organized and governed by the provision of the City Manager-Commission Charter in accord with TCA 6-18-101 through TCA 6-20-220. The Board of Commissioners shall have all of the powers and authority set forth therein and in all other Sections of the Tennessee Code relating to the powers and authorities of municipalities. In addition to the powers and authority of the Board of Commissioners, the City hereby confirms the existence of the Planning Commission and the Board of Zoning Appeals and the purpose of this Article shall be to set forth the powers and authority of said Planning Commission and Board of Zoning Appeals and the methods of enforcement of this Zoning Ordinance.

8.02. **Board Of Zoning Appeals.**

(a) **Established.** The Board of Zoning Appeals established in Title 2 of the Municipal Code shall be governed by the following provisions and have the full power and authority to hear appeals and to apply and construe the provisions of this Zoning Ordinance in all matters properly brought before it.

(b) **Powers of the Board.**

(i) **General Powers, Regulations.** The Board of Zoning Appeals shall have such duties, powers, and authority as are set forth in the various sections of this chapter. The Board of Zoning Appeals shall and is hereby authorized to adopt such rules and regulations as it may deem necessary and appropriate to carry into effect the provisions of this chapter. It shall hear and decide:

(1) any questions arising from a decision or determination made by City Building Official or the City Manager in the enforcement or application of this chapter or from the refusal, granting or revocation of any permit by the City Building Official or the City Manager under the provisions of this chapter brought before the Board of Zoning Appeals on appeal by any person deeming himself or herself to be adversely affected by such action;

(2) all applications for special exceptions and all matters referred to it upon which it is required to pass under this chapter. Within its powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part, or modify the zoning requirements, decision, or determination of the City Building Official or City Manager as in its opinion ought to be made under the circumstances, and to that end shall have all powers of the officers from whom the appeal is taken, including authority to direct the issuance of a permit. Any order of the Board of Zoning Appeals directing or authorizing the issuance of such permit shall expire and become ineffective at the end of eighteen (18) months after its issuance;

(3) notwithstanding the foregoing, the Board of Zoning Appeals shall have no authority to grant any appeal, application for Special Exception or other matter upon which it is required to pass under this chapter if the City Building Official or

City Manager shall certify to the Board of Zoning Appeals that the property owner seeking relief is in default in its compliance with any prior orders of the Board of Zoning Appeals respecting the property in question, as evidenced by the minutes of the Board of Zoning Appeals and/or plans approved by the Board of Zoning Appeals and on file with the City, unless and until there shall have been full compliance with such orders.

(ii) Resolve conflicts. The Board of Zoning Appeals shall have the authority to resolve any conflicts amongst the drawings and charts attached hereto, or between such drawings and chart and the provisions of this chapter.

(iii) Special Exceptions. The Board of Zoning Appeals shall have power and authority to authorize the issuance of permits for special exceptions as established by this Zoning Ordinance.

(iv) Variances. The Board of Zoning Appeals shall have authority to approve variances from the strict application of this chapter, where, by reason of exceptional narrowness, shallowness, shape, exceptional topographic conditions or other extraordinary and exceptional situation or condition of a specific piece of property, the strict application of the zoning regulations as contained in this chapter would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property, the Board of Zoning Appeals may grant a variance from such strict application so as to relieve such difficulties or hardship; provided that such relief may be granted without detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and zoning ordinance of the City.

8.03. **Enforcement And Stop Work Orders.** This Zoning Ordinance shall be enforced as follows:

(a) The City Manager shall enforce the provisions of this Zoning Ordinance. No permit shall be issued for the excavation, demolition, construction, or alteration of any building, Dwelling, Structure, Sign or use, where the plans, specifications, or evidence of intended use indicate that the building, Dwelling, Structure, Sign or use would not conform with the provisions of this Zoning Ordinance or any other City ordinance.

(b) Where any building, Dwelling, Structure, Sign or use is, or is proposed to be, erected, constructed, reconstructed, altered, maintained, or used, or any Lot or land is, or is proposed to be, used in violation of this Zoning Ordinance or any other City ordinance, the City Manager or any adjacent or neighboring property owner who would be damaged especially by such violation, may, through the City Attorney institute injunction, mandamus, abatement, or other action or proceeding to prevent, enjoin, abate, or remove any such violation. Where construction, excavation, demolition, grading or any other activity has begun on any building, Dwelling, Structure, Sign or use in violation of this Zoning Ordinance or any other City ordinance, the City Manager may, in addition to taking other authorized enforcement action, issue a stop work order pending the responsible party or parties bringing such construction, use or other activity into compliance with this Zoning Ordinance or any other City ordinance.

(c) The City Manager shall keep records of all permits and related information supplied by applicants in a manner that is available for public review. A separate file shall be maintained for any work performed in the Floodplain with all documentation and certifications as required in this Zoning Ordinance or any other City ordinance.

(d) Any violation of this Zoning Ordinance or of any City ordinance requiring compliance shall be governed by TCA 13-7-208 and shall be punishable as a Class C misdemeanor in accord with the provisions of said statute.

8.04. **City Manager's Powers.** In addition to the other powers, authorities and duties set forth in this Zoning Ordinance and granted pursuant to TCA 6-21-108 and other relevant sections of state law, the City Manager has the authority to promulgate reasonable standards, regulations and requirements, not otherwise inconsistent with the provisions of this Zoning Ordinance, for the general welfare of the City with respect to the enforcement of the provisions of this Zoning Ordinance and the issuance, requirement and/or revocation of any and all permits, subject to the approval of the Board of Commissioners.

8.05. **Fees.** All fees for all applications made pursuant hereto, including but not limited to all fees for permits, Concept Plans, and zoning change applications shall be paid to the City at the time said application is submitted in the amounts set forth in the Fee Resolution as same may from time to time be amended or increased. No permit shall be issued unless the applicant therefor has complied fully with all applicable provisions of the Fee Resolution.

8.06. **Expiration Of Permits.** Unless otherwise specified herein or in the rules, regulations and procedures of any City official, board, agency or commission, all permits, certificates, variances, special exceptions, or approvals of any other nature whatsoever granted pursuant to any provision of this Zoning Ordinance shall, if not acted upon, expire within eighteen (18) months from the date of such grant. Transportation permits issued pursuant to the Fee Resolution shall expire forty-five (45) days following issuance.

ARTICLE IX. PROCEDURES.

9.01. **Purpose.** The purpose of this Article is to establish the procedural requirements for obtaining a zoning certificate, meeting Concept Plan requirements, obtaining approvals of both residential and nonresidential uses, applying for Comprehensive Plan and Comprehensive Plan Map amendment or changes and Zoning Map and zoning text changes or amendments, and obtaining all permits required by this Zoning Ordinance or any other City ordinance.

9.02. **Certificate And Permit Requirements.** No construction, excavation, demolition, grading or any other activity or development governed by this Zoning Ordinance or any other City ordinance or the Subdivision Regulations of the City may be commenced without a permit. All required permits shall be obtained from the City Manager on forms prepared by the City Manager and with the necessary information as required by those permit application forms. The City Manager shall review all applications pursuant to which a permit is requested and either issue a permit or, if the application or the proposed use for which the permit is requested does not meet the requirements of this Zoning Ordinance or the Subdivision Regulations of the City or other relevant City ordinances, reject said application and state the reasons for such rejection. All certificates required by this Zoning Ordinance or any other City ordinance shall be obtained from the City Manager before a permit may be issued to any person or entity for the commencement of construction, excavation, demolition, grading or any other activity in the City requiring a permit.

9.03. **Procedure For Change Or Amendment Of City's Comprehensive Plan, Comprehensive Plan Map, Zoning Map And Zoning Ordinance.** At any regularly scheduled meeting, upon application or otherwise, the Planning Commission may amend or change the City's Comprehensive Plan, Comprehensive Plan Map or Subdivision Regulations. No public hearing shall be required for an amendment or change of the City's Comprehensive Plan or Comprehensive Plan Map by the Planning Commission, however, in amending or changing the Subdivision Regulations the Planning Commission shall comply with the provisions of TCA 13-4-303, which does require a public hearing. The Board of Commissioners may change, amend or supplement any text of this Zoning Ordinance, Zoning Map, district boundary, or classification of property established by this Zoning Ordinance, or amendments thereof, by following the procedures set forth herein below:

(a) **Applications.**

(i) Applications for the change of any text, Zoning Map, district boundaries or classification of property, as shown on the Zoning Map, shall be submitted to the City Manager, who shall distribute such applications to the Planning Commission and the Board of Commissioners. The City Manager shall administer the required public notice procedures.

(ii) Applications shall be on such forms, and shall be accompanied by such data and information, as may be prescribed for that purpose by the Planning Commission, so as to assure the fullest practicable presentation of facts for the permanent record.

(b) **Planning Commission Public Hearing.** Before submitting its recommendations on a proposed amendment to the Board of Commissioners, the Planning Commission shall hold at least one (1) public hearing thereon. Notice of the time and place of the public hearing shall be given at least ten (10) days prior to that date, and the notice shall be given in one (1) publication in a newspaper of

general circulation in the City. If the application is for a Zoning Map amendment affecting one particular piece of property, notice of each hearing shall be given to all adjacent property owners (taken from the most recent tax rolls) by placing the notice in the United States mail at least ten (10) days before the date of the hearing. Also, a Sign, in a form required by the City Manager, providing notice of the time, place and subject of the proposed amendment shall be posted on the property by the City in a location easily visible from the road at least ten (10) days prior to the public hearing.

(c) **Planning Commission Recommendation.** The Planning Commission shall recommend approval or disapproval of the proposed amendment and shall report its recommendations to the Board of Commissioners.

(d) **Board of Commissioners Public Hearing.** Upon receiving the Planning Commission's recommendations on a proposed amendment, but before finally adopting or rejecting any ordinance concerning any such amendment, the Board of Commissioners shall, in accord with its procedures for the adoption of ordinances, hold a public hearing. Notice of the time and place of the public hearing shall be given at least fifteen (15) days prior to that date and the notice shall be given in one (1) publication in a newspaper of general circulation in the City. If a rezoning of property is involved, notices shall be sent by the United States mail and a Sign, in a form required by the City Manager pursuant to his authority set forth in Section 7.04 hereof, providing notice of the time, place and subject of the proposed amendment shall be posted on the property by the City at least fifteen (15) days prior to the public hearing.

(e) **Zoning Ordinance Text Amendments.** The approval of Zoning Ordinance text amendments by the Board of Commissioners shall be preceded by a finding that a change is needed for one (1) of the following reasons:

(i) The use desired is not covered in the text of this Zoning Ordinance but is acceptable because:

(1) The use proposed is in accordance with the purpose and intent of the zoning district; and,

(2) There are similar uses in the district; and

(3) The intensity of use proposed is consistent with other uses in the district.

(ii) New conditions have arisen that have not been addressed in this Zoning Ordinance. These new conditions must be one of the following:

(1) The City's Comprehensive Plan has been amended, and the Zoning Ordinance needs to be brought into conformity with the Comprehensive Plan.

(2) Changing conditions require new forms of development or new procedures to meet these changing needs.

(3) New methods of development or the provision of infrastructure makes it necessary to alter the Zoning Ordinance to meet these new conditions.

(4) Changing governmental finances requires amending the text of this Zoning Ordinance to be in keeping with the needs of government to provide and afford new public services.

(iii) After experience with the Zoning Ordinance, adjustments are needed, in the sole and exclusive jurisdiction of the Board of Commissioners pursuant to their legislative authority, to achieve the desired objectives of the City.

(f) **Zoning Map Amendments.** The approval of Zoning Map amendments by the Board of Commissioners shall be preceded by a finding that a change is needed for one (1) of the following reasons:

(i) The Comprehensive Plan has been amended and the Zoning Map needs to be brought into conformance with the revised plan; or

(ii) A mistake was made on the original Zoning Map; or

(iii) Conditions have changed making the location sought to be rezoned favorable for the proposed zoning change; or

(iv) After experience with the Zoning Map, adjustments are needed, in the sole and exclusive jurisdiction of the Board of Commissioners pursuant to their legislative authority, to achieve the desired objectives of the City.

(g) **Decisions.** After holding the public hearing, the Board of Commissioners shall consider the recommendations of the Planning Commission and vote to adopt or reject the proposed amendment. If adopted, the ordinance concerning the proposed amendment shall become effective on the date said ordinance receives a favorable vote of a majority of the members of the Board of Commissioners.

(h) **Failure to Notify.** The intention of this Section 9.03 is to provide due notice of proposed Zoning Map changes to all persons who may be interested in or affected by the changes. However, failure to notify property owners by United States mail due to an error in records or any other circumstance shall not invalidate any recommendation of the Planning Commission or action of the Board of Commissioners provided that such failure was not intentional.

(i) **Repeat Applications.** Whenever any application for an amendment or change of the Zoning Map has been denied by the Board of Commissioners or withdrawn, no new petition covering the same property, the same property plus any additional property, or a portion of the same property, can be filed with or considered by the Board of Commissioners until one (1) year has elapsed from the date of the filing of a previous petition.

ARTICLE X. DEFINITIONS.

10.01. **Purpose.** The purpose of this Article is to define words, terms, and phrases contained within this Zoning Ordinance.

10.02. **Word Usage.** In the interpretation of this Zoning Ordinance, the provisions and rules of this Section 11.02 shall be observed and applied, except when the context clearly requires otherwise:

(a) Words used or defined in one tense or form shall include other tenses or derivative forms.

(b) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.

(c) The masculine gender shall include the feminine, and the feminine gender shall include the masculine.

(d) The word “shall” is mandatory.

(e) The word “may” is permissive.

(f) The word “person” includes individuals, firms, corporations, associations, trusts, and any other similar entities.

(g) All other words shall have the meanings applied to them in common parlance as formalized by the Merriam Webster dictionaries, and when in conflict with common parlance, the dictionary definitions shall control.

10.03. **Definitions.** The following words and phrases are defined terms and are capitalized throughout this Zoning Ordinance:

Accessory Apartment: An independent dwelling with separate cooking, eating, sanitation and sleeping facilities that is added to an existing One-Family, more commonly known as a “mother in-law apartment” or a “granny flat”.

Accessory Use(s): A use or building customarily incidental and accessory to the principal use of a Lot, building, principal Dwelling or Structure and located upon the same Lot as the principal use and not repetitious thereof. For the purposes of this Zoning Ordinance, Accessory Uses shall include, but shall not be limited to, athletic courts, tennis courts, Swimming Pools, pool houses, Guest Houses and Caretaker Cottages, Accessory Apartments, Stables, barns, and tool or utility sheds.

Alternative tower structure: Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Animal Unit(s): A measure controlling the number of animals per acre. The animal unit accounts for the carrying capacity of one acre of land and is related to the amount of feed various species consume, and the amount of waste they produce. The following table indicates the number of common farm animals which comprise a single animal unit.

<u>Type of Livestock</u>	<u>Number of Animals</u> <u>Per Animal Unit</u>
Horses or ponies	One horse or pony for every two and one-half acres.
Cows or calves	2
Hogs	4
Sheep or lambs	7
Other Poultry	50

Antenna(s): Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul network: The lines that connect a provider’s towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Base Flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year (commonly called the 100 year flood).

Board of Commissioners: The Board of Commissioners of the City.

Board of Zoning Appeals: The Board of Zoning Appeals of the City.

Building Cover: The portion of a Lot permitted to be covered by primary Dwellings, Structures, Guest Houses/Caretaker Cottages, and Accessory Uses.

Building Height: The vertical distance measured from grade plane to the average height of the highest roof surface. The grade plane is a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and a point six feet from the building.

Building Setback Line: The line or lines designating the area within which buildings may be erected.

City Attorney: The person appointed by the Board of Commissioners to render legal advice and services to the City in accord with TCA 6-21-201 and 202.

City Engineer: The person appointed by the Board of Commissioners to provide the City with engineering services.

City Manager: The person appointed by the Board of Commissioners to administrate the daily operations of the City.

Comprehensive Plan: That certain plan known as “Comprehensive Plan for the City of Forest Hills, Tennessee” adopted on January 21, 2010 by the Planning Commission, as from time to time amended.

Concept Plan(s): A plan meeting all the specifications and requirements of the Subdivision Regulations.

Controlling Date: January 20, 2012.

Diameter Breast Height (DBH): The diameter in inches of a tree measured at four and one-half feet above the existing grade.

Domesticated hens: Female chickens that may, where permitted, be kept and maintained for the non-commercial production of eggs, education, companionship, or recreation. Other types of fowl and poultry shall not be considered domesticated hens.

Dwelling(s): Any house or building or portion thereof which can be occupied in whole or in part as the home, residence, or sleeping place of one or more persons either permanently or transiently.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

Family: One (1) or more persons residing in a principal Dwelling and living as a single housekeeping unit.

Fee Resolution: A resolution, adopted and amended from time to time, by the Board of Commissioners setting the fees of the City.

Fence: Any self-standing structure, partition or wall erected to enclose a piece of land to provide privacy, security and/or sound absorption or reflection.

Fixture, Fully Shielded: An outdoor lighting fixture shielded in such a manner that in its installed position, no light output is emitted at or above the horizontal (ninety (90) degrees), and no more than ten (10) percent of the rated lamp output is emitted at or above eighty (80) degrees.

Fixture, Partially Shielded: An outdoor lighting fixture shielded in such a manner that in its installed position, no more than two and one half (2.5) percent of the rated lamp output is emitted at or above the horizontal (ninety (90) degrees) and no more than ten (10) percent is emitted at or above eighty (80) degrees.

Floodplain: The land which has been or may be hereafter covered by flood water during a flood having a one (1) percent chance of being equaled or exceeded in any given year (commonly called the 100 year flood). The floodplain is identified on either the official map issued by the Federal Emergency Management Agency or any floodplain study performed for the City by a qualified licensed engineer. The most recent and detailed maps shall be used to identify the floodplain and floodplain elevations.

Floodway: The channel of a water course and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floor: The top surface of an enclosed area in a building (including basement), i.e. top of a slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a Garage used solely for parking vehicles.

Floor Area: The sum of the gross Floor area for each story within a Structure, measured from the exterior limits of the face of the Structure. Floor area with a ceiling height of 15 feet or greater shall be counted twice. Floor area with a ceiling height of 25 feet or greater shall be counted three times. The Floor Area of a building includes basement floor area which is habitable. Attic floor area is included only if the attic area meets City Building Code standards and is habitable Floor Area. Not included are cellars, unenclosed porches, or any floor space in an Accessory Building or in the principal Structure which is designed for the parking of motor vehicles in order to meet the parking requirements of this Zoning Ordinance. For Dwellings in residentially zoned districts, the following shall be excluded from computation of Floor Area: (i) elevators, (ii) covered entries, (iii) individual dormers, (iv) bay windows, and (v) chimneys.

Floor Area Ratio (FAR): An intensity measured as a ratio derived by dividing the total Floor Area of a building or Structure by the gross site area.

Garage(s): Either an Accessory Building or a space attached to a principal Dwelling or a principal Structure permitted in any district and providing for the storage of motor vehicles, and in which no business occupation or service for profit is in any way conducted.

Geotechnical Study: A report or study prepared and certified by a geotechnical engineer licensed to practice in the State of Tennessee. Each Geotechnical Study shall contain a report or study of a subject property in accordance with the professional standard of care generally practiced by engineers in Middle Tennessee. Each Geotechnical Study shall include, but not be limited to, (i) a review of project needs, (ii) a site investigation of soil properties and characteristics, (iii) a risk assessment, (iv) recommendations for stabilization and related construction practices to reduce the risks of construction, erosion, and slippage as well as to ensure that the proposed construction will not degrade slope stability or pose a threat to the public health, safety and welfare, (v) an engineering report designing and sizing the drainage system and the footings for all Structures in accordance with the best practices in the field, and (vi) a schedule of excavation and construction with an erosion control plan and a schedule of inspections to be completed by the City Engineer or the applicant's engineer.

Guest House(s)/Caretaker Cottage(s): A Dwelling unit, containing a kitchen, located on the same Lot as, and secondary to, a principal Dwelling.

Home Occupation: Business activities are generally prohibited, however, those occupations which can be conducted entirely within a principal Dwelling, for which no inventory is maintained upon the premises for sale or resale, no person is employed other than a member of the immediate Family residing on the premises, no mechanical or construction equipment is located on the exterior of the Dwelling or premises, no vehicular or pedestrian traffic generated within the neighborhood or area of the home in

excess of a normal household traffic, no alteration of the residential character of the property, and no sign or display is located on the exterior of the Dwelling or premises indicating that the Dwelling is being utilized for a home occupation.

Impervious Surface: Any hard-surfaced, man-made area that does not readily absorb or retain water, including, but not limited to, roofs of Structures, parking and driveway areas, sidewalks, and graveled areas. Permeable pavement systems, including pervious concrete, modular block systems, porous asphalt, or grass and gravel pavers, are considered Impervious Surfaces; however, each one square foot of properly installed permeable pavement system will count as only 0.33 square foot of Impervious Surface.

Impervious Surface Ratio: A measure of the intensity of the land use, which is determined by dividing the total area of all Impervious Surfaces on a Lot, including Building Cover, by the Lot area.

Landscaping Plan: A plan prepared and certified by a registered architect, landscape architect, or civil engineer drawn to a scale of not less than 1" = 20". Each Landscaping Plan shall show the entire Lot with as-built and proposed landscaping for every yard, except those areas occupied by utilities, driveways, paved walks, patios, pools, athletic courts, walls, and other Structures. Foundation plantings are recommended and should be appropriate for the design of the related Structure(s) and size appropriate, in keeping with the scale of the related Structure(s).

Lot(s): A tract, plot, or portion of land within the City intended as a unit for the purpose of land ownership, transfer of ownership, subdivision or building development.

Lot Cover: The portion of a Lot permitted to be covered by Impervious Surfaces, including, but not limited to, the footprints of all Structures collectively, driveways, sidewalks, and any area of concrete or asphalt. This definition encompasses the definition for "Building Cover."

Lot(s), Corner: A Lot situated at the junction of two (2) or more streets. Both Yards between the street Right-of-Way and building shall be considered Front Yards. All Yards that are not adjacent to a street shall be considered either Side Yards or Rear Yards, as indicated in Figure 903.

Major Street Plan: The plan of streets adopted by the Planning Commission pursuant to TCA 13-4-302, identifying the locations of all scenic arterial, arterial, and residential collector streets (which are also known as major streets) in the City, of record in Book 8250, Page 62, Register's Office of Davidson County, Tennessee, as amended.

Municipal Code: The ordinances of the City of a general, continuing, and permanent application or of a penal nature, as codified and revised in Titles 1 to 20, both inclusive, as ordained and adopted from time to time by the Board of Commissioners.

Nonconforming: A nonconforming building, Dwelling or Structure, or the use of a building, Dwelling, Structure or Lot as governed by the requirements of Article VIII of this Zoning Ordinance.

Open Space(s): Land that is to be used primarily for resource protection, agriculture, recreational purposes or otherwise left undisturbed and specifically excluding road Rights-of-Way.

Place(s) of Worship: Community facilities, such as a church, synagogue, chapel, sanctuary or cathedral, which are used for the collective or individual involvement with a religious activity, such as rites, rituals,

ceremonies, prayers and discussions and, in addition, community facilities which are used for activities typically performed by nursery schools, kindergartens and “Mothers Day Out” programs provided such additional uses are in conjunction with places of worship.

Planning Commission: The Municipal Planning Commission of the City.

Preexisting Towers and Preexisting Antennas: Any Tower or Antenna for which a building permit has been properly issued prior to the Controlling Date.

Public or Private School(s): Community facilities which are used for activities typically performed by public, parochial or private primary and secondary schools and, in addition, community facilities which are used for activities typically performed by public, parochial and private day schools, nursery schools and kindergartens provided such additional uses are in conjunction with primary or secondary schools.

Right(s)-of-Way: A strip of land occupied or intended to be occupied by a public facility, including but not limited to a street, sidewalk, crosswalk, electric or communication transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or for other public purposes. The usage of the term “Right-of-Way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the Lots or parcels adjoining such right-of-way and not included within the dimensions or area of such Lots or parcels. Rights-of-Way are public owned areas of land not to be confused with or interpreted as easements.

Sign(s): Any object, device, display, Structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, religious group, product, service, event, location or public hearing by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

Sign(s), Construction: A sign whose message must be limited to the name and use of a building being constructed, and which may include the names of architects, engineers, contractors, and other persons involved with a construction project.

Sign(s), Directional: A Sign indicating the direction or location of some facility or service incidental to a use and not advertising the use in any way. Such Signs shall include vehicular entrance and exit Signs, vehicular flow Signs, and instructional Signs.

Sign(s), Ground: A self-supporting Sign resting on or supported by means of poles, standards, or any other type of base on the ground and not supported by or attached to a building.

Sign(s), Open House: A temporary Sign advertising the real estate upon which the sign is located as being open for inspection.

Sign(s), Permanent: Permanent Signs are those signs which may be displayed for a longer period of time than Temporary Signs. Permanent Signs do not include Signs or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material and which are intended to be displayed for a short period of time or which are otherwise considered to be “Temporary Signs.” Permanent Signs also do not include signs mounted on a frame and/or chassis which are designed for easy and repeated relocation.

Sign(s), Political: Signs which support candidates for public office or measures on an election ballot.

Sign(s), Real Estate: A Temporary Sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

Sign(s), Security: A Sign intended to warn off trespassers upon the property which the Sign is located.

Sign(s), Special Event: See definition of “Sign, Temporary.”

Sign(s), Temporary: A Sign or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material and intended to be displayed for a short period of time as specified under the requirements of this Zoning Ordinance.

Slippage Soils: Soils where the parent material is Colluvium, e.g. Delrose, as classified by The Natural Resources Conservation Service.

Slope(s): The relationship of the change in the vertical measurement to the change in the horizontal measurement, and usually written as a ratio or a percentage.

Slope(s), Steep: Areas that have a finished grade of 20% or greater. No land area shall be considered a Steep Slope unless the Steep Slope area has at least a ten (10) foot vertical drop and has a minimum area of five thousand (5,000) square feet.

Stable: A Structure for horses or ponies having stalls and provisions for interior feeding.

Storm Water Management Ordinance: Title 14, Chapter 5 of the Municipal Code.

Structure(s): Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground. Structures include, but are not limited to, athletic courts, tennis courts, swimming pools, pool houses, and stables.

Surface Waters: Natural or man-made lakes, ponds, streams, creeks, or other watercourses that discretely convey flowing water, as opposed to sheet-flow.

Swimming Pool(s): Any outdoor water pool with a depth of at least twenty-four (24) inches that is designed, constructed, used or maintained for swimming purposes on any Lot.

Temporary Building: Any building or Structure which is not intended to have a permanent location on the ground, including but not limited to construction trailers, manufactured or modular buildings, mobile homes, or portable sanitation facilities.

Tower(s): Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

Water Quality Buffer Area: An area of materially undisturbed vegetation, including trees, shrubs and herbaceous vegetation, either original or re-established, bordering on Floodways and Floodplains, Surface

Waters, and Wet Weather Conveyances which provides (i) a naturally vegetated and pervious buffer between a water feature and clearing, grading, filling, paving and building activities, and (ii) protection of stream quality and resource management benefits.

Wet Weather Conveyances: Shall have the meaning given in the Tennessee Comprehensive Rules & Regulations 1200-04-03-.04.

Yard(s): The area of any lot where building is restricted by the Zoning Code, including front and side yards which will remain unobstructed by buildings, and rear yard which will remain unobstructed by the principal building.

Yard(s), Front: A Yard extending the full width of the Lot and between the front Lot line and the nearest exterior wall of the principal building on the Lot. In the case of Corner Lots, all Yards adjacent to a street shall be considered Front Yards, all as indicated in Figure 9.03.

Yard(s), Rear: A Yard extending the full width of the Lot and between the rear Lot line and each rear-facing exterior wall of the principal building on the Lot. In the case of Corner Lots, all Yards that are not adjacent to a street shall be considered either Side Yards or Rear Yards, all as indicated in Figure 9.03.

Yard(s), Side: A Yard extending between the side Lot line and the nearest exterior wall of the principal building on the Lot. In the case of Corner Lots, all Yards that are not adjacent to a street shall be considered either Side Yards or Rear Yards, all as indicated in Figure 9.03.

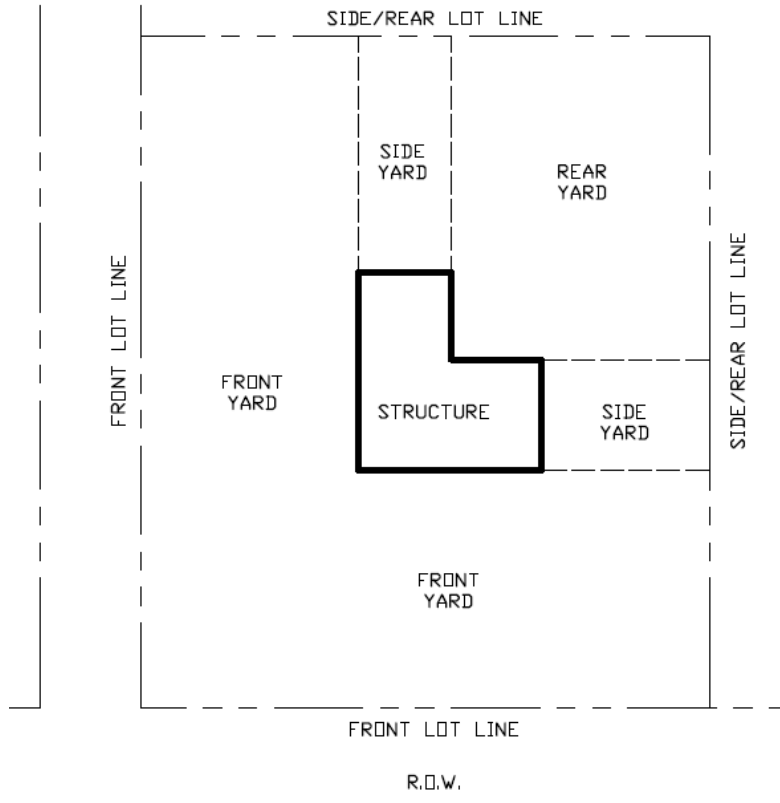


FIGURE 9.03 (b)

ARTICLE XI. VALIDITY AND EFFECTIVE DATE.

11.01. **Validity.** It is hereby declared to be the intention of the citizens of the City that if any sections, paragraphs, sentences, or words of this Zoning Ordinance as amended are declared unconstitutional or in excess of the powers vested in the Board of Commissioners by the valid judgment or decrees of any court of competent jurisdiction, such unconstitutionality or exercise of excess powers shall not affect the rest of this Zoning Ordinance as amended.

11.02. **Statement Of Compliance.** The Commissioners of the City of Forest Hills hereby certify that Ordinance Number 2011-196 has heretofore been submitted to and approved by the Municipal Planning Commission of the City of Forest Hills, and subsequently a public hearing thereon has been held after at least 15 days notice of the time and place of said meeting and public hearing was published in a newspaper of general circulation in the City of Forest Hills, as required by law, and does hereby declare this ordinance duly adopted after second reading in accordance with said provision this 5th day of January, 2012.

11.03. **Codification.** This Zoning Ordinance shall be codified in Title 14, Chapter 2 of the Municipal Code and made a part thereof.

Brentwood Tennessee

Zoning Ordinance

Chapter 78, Division III, Chapter 14 – Hillside Protection

Sec. 78-341. Hillside protection overlay district established.

The HP hillside protection overlay district is hereby established to more adequately meet the challenges of development in the higher elevation areas of the city. The district shall include all areas within the corporate limits of the city with an elevation of 850 feet and greater. The district shall be depicted on the official zoning map of the city; provided, however, that the provisions set forth in this division shall apply to all areas with elevations and grades identified in this division, regardless of whether such areas are depicted on the zoning map. As an "overlay" district, any development or land disturbance within this area shall comply with the technical and development standards in this division in addition to the requirements associated with the primary zoning district. In cases where the technical and development standards and requirements may conflict between the primary district and the overlay district, the more stringent standards and requirements shall apply.

(Ord. No. 2007-18, § 1, 7-23-2007)

Sec. 78-342. Intent.

It is the intent of the HP hillside protection overlay district to encourage prudent land disturbance and development activities that maintain the natural, topographic character of the land. It is understood that the technical and development standards within the primary zoning district alone are inadequate to preserve and protect the natural environment and scenic beauty of the city's steep hillside areas. The additional standards set forth in this division serve to protect the health, safety, aesthetics, quality of life and general welfare of the community. These standards are directed at minimizing the impact of building construction and land disturbance activities in steep hillside areas including, but not limited to, unsafe geologic disturbance; soil erosion and surface water runoff from excessive removal of trees and other vegetative cover; and severe cutting, physical scarring and visual modification of the natural terrain.

(Ord. No. 2007-18, § 1, 7-23-2007)

Sec. 78-343. Technical/design standards.

For all property located within the HP hillside protection overlay district, except for areas with an elevation less than 930 feet and with grades of less than 15 percent, the following additional technical standards shall apply to the approval of any new platted lot; the construction or erection of any residential dwelling or any other climate controlled structure

suitable for human occupancy; and/or any land disturbance activity affecting more than 10,000 square feet:

(1)

Minimum lot area. Three acres.

(2)

Maximum allowable area of disturbance. Within the total acreage of the tract or lot, one acre for the first three acres and one-fifth acre for each additional one acre in the tract or lot.

(3)

Location of buildings. No dwelling or other building shall be permitted in areas with steep grades (as defined in section 78-3 of this Code.) The building envelope shall be located in areas with natural grades classified as conventional or transitional grades. In addition, the building envelope shall be at least 50 feet away from any areas classified as steep grades and visible from properties and roadways in lower elevations.

(4)

Streets. Public streets or private streets built to city standards shall not exceed the maximum permitted grades specified in the city's subdivision regulations. In addition, retaining walls in excess of ten feet in height as measured from final grade and cut and fill sections exceeding 20 feet in the natural topography shall be prohibited. Retaining walls shall be constructed of structurally sound and durable materials in colors that blend into the natural terrain.

(5)

Driveways. Individual driveways and shared driveways with joint user and maintenance easements shall not exceed the maximum permitted grades specified in the city's subdivision regulations. In addition, any retaining wall required for construction of a driveway shall be no more than six feet as measured from final grade and constructed of structurally sound and durable materials in colors that blend into the natural terrain. Multiple retaining walls that are terraced with adequate separation to allow for the planting of suitable landscaping material for screening the walls shall be permitted. The maximum allowable cut and fill sections for any driveway shall be 12 feet. All driveway surfaces shall be constructed of materials and colors that blend into the natural terrain to the greatest extent feasible and practical.

(6)

Land disturbance within steep grade areas. With the exception of permitted driveways that comply with the technical/design standards of this division and are configured to minimize land disturbance to the greatest extent feasible,

no additional disturbance or removal of natural vegetation shall be permitted within the steep grade areas of the tract or lot. In addition, the construction of a driveway, utilities or other improvements shall not disturb more than 20 percent of the area between a structure and the public street or authorized private street providing access to the structure. Upon completion of a permitted driveway, suitable fill and soil material shall be installed on the disturbed slopes and the area shall be replanted or landscaped with suitable plant material based on a plan prepared by a Tennessee licensed landscape architect and approved by the planning commission.

(7)

Geotechnical studies. When soil disturbance activities take place in areas with steep slopes or in other areas with potentially unstable soil conditions, the applicant shall provide geotechnical studies prepared by a qualified professional engineer licensed by the State of Tennessee to evaluate site characteristics and recommend design and construction methods that ensure proper and structurally sound soil conditions during and after land disturbance activities. The city's engineering department may require additional or special studies where warranted.

(8)

Visual impact of structure. To the greatest extent feasible and practical, structures in the HP overlay district shall be designed and constructed to blend into the natural terrain. Lower profile homes shall be encouraged, with rooflines that do not extend above the natural tree line and built of materials and colors that blend into the natural tree line. In locations with limited vegetation and open visibility to properties and roadways at lower elevations, additional trees and shrubs may be required to screen the structure.

(9)

Tree protection/landscaping around structure. Existing natural vegetation around a proposed structure in the HP overlay district, particularly if located in areas of potential high visibility from properties and roadways at lower elevations, shall be preserved to the greatest extent feasible and practical. A tree survey shall be prepared to identify all existing trees with calipers of four inches or greater within the proposed areas for disturbance, and extending 50 feet beyond the disturbed areas. The tree survey shall identify all trees proposed for removal. Additional evergreen trees and shrubs may be required to effectively screen the structure. The proposed landscape plan shall identify planting elements by type, caliper, height (at planting and at maturity) and location for planting. Limited removal and trimming of vegetation and trees to partially open up the view of the lower areas from the structure may be permitted, provided 75 percent of the structure is not visible during the winter season from properties and public streets at lower

elevations. All tree protection, new plantings and tree removal shall be subject to a detailed plan prepared by a Tennessee licensed landscape architect and approved by the planning commission.

(10)

Fire protection. All structures designed for human use and occupancy, including residential dwelling units and garages, shall be protected through an automatic sprinkler system installed in accordance with National Fire Protection Association (NFPA) standards and requirements and approved by the fire chief or his designee.

(Ord. No. 2007-18, § 1, 7-23-2007)

Sec. 78-344. Exemptions.

(a)

Nonconforming lots and structures. Within the HP hillside protection overlay district, any lot established on an unexpired, approved preliminary plan or executed final plat and/or any existing structure that was lawfully constructed prior to July 31, 2007 may be developed, improved or continued in use; provided, however, when such property is developed or when an existing structure is enlarged by more than a 50 percent expansion in total square footage or 2,000 square feet of finishable floor space, whichever is less, the site shall be brought into conformance with the technical/design standards of this division to the greatest extent feasible. Exceptions to the standards may be approved by the planning commission when it determines that the proposed plan will more adequately achieve the intent of this division and/or full compliance will pose an undue burden on the property owner.

(b)

Areas with conventional grades. Areas with an elevation less than 930 feet and with grades of less than 15 percent shall be exempted from the requirements of this division. When construction or development activities are proposed for any area with an elevation of at least 850 feet but less than 930 feet, the planning department may require a field run, topographical survey to verify compliance within the maximum grade standard permitted for the exemption.

(Ord. No. 2007-18, § 1, 7-23-2007; Ord. No. 2007-29, § 1, 11-26-2007)

Sec. 78-345. Planning commission approval.

(a)

Activities requiring approval. Within the HP overlay district, except for exempted areas with conventional grades, planning commission approval shall be required prior to:

(1)

Issuance of a permit for construction of any dwelling or structure suitable for human occupancy, or alteration of a lawful nonconforming structure which

will expand the total square footage by more than 50 percent or 2,000 square feet of finishable floor space, whichever is less.

(2)

Any alteration of the exterior elevation of any structure approved under this section.

(3)

Issuance of a grading permit for a non-public land disturbance.

(b)

Information required. For all activities requiring approval by the planning commission under this subsection, the property owner and/or applicant shall provide a development plan to the planning department staff for review and recommendations prior to consideration by the planning commission. The plan shall be prepared by a qualified professional engineer or landscape architect licensed to practice in the State of Tennessee, and shall include sufficient technical information as may be needed to determine compliance with the requirements in this division. At minimum, the application shall include the following information:

(1)

Name, address, phone number and electronic mailing address of the owner, developer and applicant;

(2)

Small scale location map of the proposed site;

(3)

Primary zoning district classification of the site and acreage involved;

(4)

All structures and street/driveway access to adjacent properties within 1,000 feet;

(5)

Topographic contours at two-foot intervals, including highlighted identification of all areas with an elevation of 850 feet and greater and designation of areas on the property between conventional, transitional and steep grades;

(6)

Geotechnical study that evaluates site characteristics and provides recommendations for design and construction, if required;

(7)

Detailed site plans showing the locations of driveways and access points to the street; grades of the driveways, including cut and fill sections; retaining walls, with lengths and dimensions identified; location and size of utilities, storm drainage improvements and associated easements; landscaping; and overall site grading plan with erosion and sediment control measures;

(8) The location of required tree protection areas and legal restrictions and provisions satisfactory to the city attorney to ensure permanent preservation of trees within such areas;

(9) Structure footprints on the site, applicable building setbacks, and color elevation drawings showing height of buildings and exterior treatment; along with a visual simulation of the proposed structure placed on photographs of the existing hillside area to show how the structure will appear from various locations, properties and roadways at the lower elevation areas;

(10) A written statement from the property owner, if other than the applicant, stating the applicant is acting on his behalf in the submission of the development plan; and

(11) Any additional information that the planning commission may require for the purpose of promoting the intent of this division.

(c) *Time limitation.* A development plan approved by the planning commission for property within the HP overlay district shall be valid for a period not to exceed 24 months. If substantial construction on the structure, including but not limited to, foundations, walls, and roofs, has not begun and proceeded in continual progress within 24 months, the approval shall expire and the applicant shall be required to resubmit plans to the planning commission for approval based on the latest technical/design standards in the zoning ordinance.

(d) *Certificate of occupancy.* Prior to completion of a structure within the HP overlay district and issuance of a certificate of occupancy, an inspection shall be conducted by responsible city departments to determine if the improvements have been completed according to the approved plan. If at any time during construction it is determined that the work being performed is not in compliance with the requirements of this division and the approved development plan, a stop work order shall be issued immediately. The order shall remain in effect until the work is brought into compliance with this Code.

(Ord. No. 2007-18, § 1, 7-23-2007)

Secs. 78-346—78-359. Reserved.

Concord, California

ARTICLE VI. HILLSIDE DEVELOPMENT

Sec. 122-811. Purpose and intent.

This article is intended to protect the health, safety, and welfare of residents of the city by establishing regulations for managing the development of hillside areas. This article seeks to minimize the risk of personal injury, impact to water quality, and damage to property from landslides, erosion, earth creep, stormwater runoff, and other hazards in and near hillside areas of the city. It is not the intent of this article to prohibit grading but to minimize the need for grading and to ensure that, when grading is necessary, it appears to be as natural and unobtrusive as possible.

(Code 1965, 10740; Ord. No. 85-45; Ord. No. 01-12, 2)

(b) A further intent of this article is to facilitate protection of existing views from both private development and public open space and rights-of-way from encroachment by new development. To achieve these purposes and intents, and to implement the policies of the General Plan relating to development in hillside areas, this Hillside Development Ordinance is adopted.

(Code 1965, 10740; Ord. No. 85-45; Ord. No. 01-12, 2)

Sec. 122-812. Applicability.

This article shall apply to all parcels that have an average slope of 15 percent or more, except as provided in subsection (a) of this section. In the event of conflicts between the provisions of this article and the existing zoning district applicable to such parcel(s), the provisions of this article shall apply.

(Code 1965, 10741; Ord. No. 85-45; Ord. No. 01-12, 2; Ord. No. 05-1)

(a) All parcels meeting the following standards shall be excluded from the density requirements of Section 112-813(a):

(Ord. No. 05-1)

(1) The parcel shall have an average slope of less than 20 percent; and

(Ord. No. 05-1)

(2) The parcel shall have either existing development or be surrounded by land that has General Plan and Zoning designations for development on all four sides of or abutting its entire perimeter, and

(Ord. No. 05-1)

(3) The parcel shall not abut open space on any side of its perimeter; and

(Ord. No. 05-1)

(4) The parcel shall be less than five acres in size.

(Ord. No. 05-1)

(b) The parcel(s) shall conform to the purpose and intent of this Article, as well as conform to the applicable development standards of this Article.

(Ord. No. 05-1)

Sec. 122-813. Development standards.

(a) Density. Notwithstanding the density allowed by the underlying zoning district, the maximum density at any parcel to which this article applies shall not exceed that shown on the attached Table A entitled "Maximum Density at Hillside Parcels" [at the end of this article] which is incorporated herein by reference.

(Code 1965, 10742; Ord. No. 85-45; Ord. No. 05-1)

(b) Exclusions. The Planning Commission may delegate the authority to approve the exclusion of portion(s) of the site to the Planning Manager. The determination of the Planning Manager may be appealed to the Commission as part of the review of a hillside development plan.

(Code 1965, 10742; Ord. No. 85-45; Ord. No. 01-12, 3)

(c) Unit count. The maximum number of units allowed at a hillside site shall be determined by applying the density approved by the Planning Commission to the area of the site, not including all areas that have been excluded from the calculation of the average slope.

(Code 1965, 10742; Ord. No. 85-45)

(d) Exception for single-family residences. However, nothing in this article shall prohibit the construction and occupancy of a single-family residence at a parcel created pursuant to the Subdivision Map Act and the city's Subdivision Ordinance prior to the effective date of this article.

(Code 1965, 10742; Ord. No. 85-45)

(e) Applicability of standards of underlying district. All other development standards applicable for the underlying zoning district shall be applicable to a hillside parcel.

(Code 1965, 10742; Ord. No. 85-45)

Sec. 122-814. Hillside development plan.

(a) Project initiation. To initiate a project at any parcel to which this article applies, the property owner(s) or assignee(s) shall submit a hillside development plan for review and approval by the Planning Commission, provided that the Zoning Administrator shall review and act on hillside development plans for single-family residences at existing lots. The hillside development plan shall describe the proposed development and use of all parcels affected by the project, including any parcels where this article does not apply.

(Code 1965, 10743; Ord. No. 85-45)

(b) Contents. The hillside development plan shall include the information specified in section 122-684 of this Code (preliminary development plans for parcels zoned Planned District), plus the following information:

(Code 1965, 10743; Ord. No. 85-45)

(1) Map of existing and final contours, with a contour interval no greater than two feet; these contours shall extend 50 feet into all abutting properties;

(Code 1965, 10743; Ord. No. 85-45)

(2) Colored maps of existing and final slope, based on the following slope categories: zero to ten percent, ten to 15 percent, 15 to 20 percent, 20 to 25 percent, 25 to 30 percent, 30 to 35 percent, 35 to 40 percent, 40 to 50 percent, and greater than 50 percent; adjoining slope categories shall be shown using contrasting colors;

(Code 1965, 10743; Ord. No. 85-45; Ord. No. 01-12, 4)

(3) A description of the existing and post-project appearance of the site as seen from public open spaces, rights-of-way, and other public places. The description shall use both written and visual materials, as may be determined appropriate by staff;

(Code 1965, 10743; Ord. No. 85-45)

(4) A written description of existing and post-project views as seen from adjoining parcels located even with or above the lowest elevation of the site;

(Code 1965, 10743; Ord. No. 85-45)

(5) Cross sections of all proposed cut or fill areas, including existing and final profiles; the cross sections shall extend 50 feet into abutting properties; and

(Code 1965, 10743; Ord. No. 85-45)

(6) A discussion of the expected need for erosion control and a list of likely erosion control measures to be implemented. (A detailed discussion of proposed facilities to manage stormwater runoff is not required as part of a hillside development plan.)

(Code 1965, 10743; Ord. No. 85-45)

(c) Fee. Applications for approval of a hillside development plan or for an amendment or extension to an approved plan shall be accompanied by a fee as set forth in the Resolution Establishing Fees and Charges for Various Municipal Services.

(Code 1965, 10743; Ord. No. 85-45; Ord. No. 88-30)

(d) Evaluation of plan. The Planning Commission shall evaluate the hillside development plan based on the following criteria:

(Code 1965, 10743; Ord. No. 85-45)

(1) In general, the project shall be designed to fit the existing topography; the site shall not be graded to accommodate the project;

(Code 1965, 10743; Ord. No. 85-45)

(2) The proposed density does not exceed the maximum allowed density, as determined pursuant to section 122-813 above, unless section 122-812(a) applies to the parcels;

(Code 1965, 10743; Ord. No. 85-45; Ord. No. 05-1)

(3) All areas with a slope greater than 40 percent shall be left undisturbed;

(Code 1965, 10743; Ord. No. 85-45)

(4) Slopes created by grading of the site shall not exceed 30 percent;

(Code 1965, 10743; Ord. No. 85-45)

(5) Final contours and slopes shall generally reflect existing landforms; in particular, building pads and terraces interspersed with slopes shall not be created and ridgelines, knolls, and significant tree masses shall be maintained;

(Code 1965, 10743; Ord. No. 85-45; Ord. No. 01-12, 4)

(6) All areas not under structures with a final slope greater than 20 percent shall be left uncovered by impervious surface and may be disturbed only as may be necessary to develop the site;

(Code 1965, 10743; Ord. No. 85-45)

(7) Maximum coverage of a parcel by impervious surfaces shall not exceed 40 percent of the gross land area, and such maximum may be reduced by the Planning Commission in areas where the slope exceeds 15 percent;

(Code 1965, 10743; Ord. No. 85-45)

(8) The proposed development shall seek to avoid significant intrusion(s) into the views from adjoining up-slope residences;

(Code 1965, 10743; Ord. No. 85-45)

(9) Views from public open space areas, rights-of-way, and other public places and of major public open space areas shall not be significantly affected, although minor intrusions into such views may be permitted;

(Code 1965, 10743; Ord. No. 85-45)

(10) Wide pads or level areas should not be created to accommodate roads. Roads should be fit into the existing topography; one-way roads are preferred over two-way roads, and on-street parking should be parallel to the road, not perpendicular;

(Code 1965, 10743; Ord. No. 85-45)

(11) The buildings, parking, carports, and landscaping shall be arranged so that view corridors from downslope lots are created; and

(Code 1965, 10743; Ord. No. 85-45)

(12) The highest point of any structure shall not be located within 100 vertical feet of a ridgeline (i.e., a ground line located at the highest elevation of a connected series of major and minor hills or mountains).

(Code 1965, 10743; Ord. No. 85-45)

(e) Action and findings.

(1) Following submission of a complete hillside development plan, including all supporting data, the Planning Commission shall hold a public hearing, notice for which shall be provided in conformance with section 122-747(b) of this Code. After the hearing is closed, the Commission shall take one of the following actions:

(Code 1965, 10743; Ord. No. 85-45)

a. Approve the plan as submitted, with any conditions that may be necessary to secure conformance with the provisions of this Code and the General Plan;

(Code 1965, 10743; Ord. No. 85-45)

b. Disapprove the plan; or

(Code 1965, 10743; Ord. No. 85-45)

c. Continue consideration of the plan to a future meeting.

(Code 1965, 10743; Ord. No. 85-45)

(2) In order to approve a plan, the Planning Commission shall find that:

(Code 1965, 10743; Ord. No. 85-45)

a. The plan conforms to the General Plan and this Code;

(Code 1965, 10743; Ord. No. 85-45)

b. The plan conforms with all the criteria listed above and any guidelines adopted by the Commission to supplement the criteria; and

(Code 1965, 10743; Ord. No. 85-45)

c. The proposed development will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or employed in the vicinity of the site or be detrimental or injurious to property and improvements in the vicinity or to the general welfare of the city.

(Code 1965, 10743; Ord. No. 85-45)

(3) The Planning Commission may reduce the allowed density at a parcel if it determines that such reduction is necessary to:

(Code 1965, 10743; Ord. No. 85-45)

a. Protect the health, safety, or general welfare of persons residing or employed in the vicinity of the site or property and improvements in the vicinity or to the general welfare of the city;

(Code 1965, 10743; Ord. No. 85-45)

b. Protect water quality in downstream creeks or rivers; or

(Code 1965, 10743; Ord. No. 85-45)

c. Preserve significant views from public open spaces, rights-of-way, or other public places.

(Code 1965, 10743; Ord. No. 85-45)

Sec. 122-815. Design review.

All hillside development plans shall be subject to the Design Review. Design review shall include, but not be limited to, evaluation of site grading and proposed finished grades, location of building sites, building heights and orientation with respect to finished grades, building architecture, landscaping and fencing, and hillside/slope restoration. Deviations from the approved hillside development plan may only be approved by an amendment to the Plan pursuant to section 122-820.

(Code 1965, 10744, 10745; Ord. No. 85-45; Ord. No. 01-12, 5; Ord. No. 05-1)

Sec. 122-816. Plan requirements for property zoned Planned District.

For single-family residential subdivisions proposed at properties zoned Planned District to which this article is applicable, the hillside development plan shall also fulfill the requirement for a preliminary development plan. No additional fee shall be charged for a hillside development plan that fulfills the requirement for a preliminary development plan.

(Code 1965, 10745, 10746; Ord. No. 85-45; Ord. No. 90-1; Ord. No. 01-12, 5; Ord. No. 05-1)

Sec. 122-817. Erosion control plan.

(a) An erosion control plan is required to be submitted and approved by the Engineering Division for all subdivisions (minor and major) filed with the city when acceptance of the improvements is not expected before the rainy season (October 15 to April 15) where:

(Code 1965, 10746, 10747; Ord. No. 85-45; Ord. No. 90-1; Ord. No. 05-1)

(1) Slopes are over 15 percent; or

(Code 1965, 10747; Ord. No. 85-45; Ord. No. 05-1)

(2) The grading operation is over 150 cubic yards; or

(Code 1965, 10747; Ord. No. 85-45; Ord. No. 05-1)

(3) Any grading operation is within 100 feet of a watercourse (top of bank) or any other water body.

(Code 1965, 10747; Ord. No. 85-45; Ord. No. 05-1)

(b) A plan is to be prepared in accordance with the Manual of Standards for Erosion and Sediment Control Measures for both temporary and permanent erosion control measures.

(Code 1965, 10747; Ord. No. 85-45; Ord. No. 05-1)

(c) The cost of erosion control measures are to be included in the subdivision cost estimates for bonding and construction inspection fee calculations.

(Code 1965, 10747; Ord. No. 85-45; Ord. No. 05-1)

(d) A plan should be approved no later than September 1 and installation of control measures completed no later than October 15 of each year.

(Code 1965, 10747; Ord. No. 85-45; Ord. No. 05-1)

(e) Construction inspectors will inspect the installation of control measures and monitor functioning of same during winter and require repairs/revisions as needed.

(Code 1965, 10747; Ord. No. 85-45; Ord. No. 05-1)

Sec. 122-818. Fences.

All fences at hillside properties shall consist of wire mesh and wood post or other material that does not significantly affect views of the site. Chainlink fence is prohibited. Solid wood, masonry, or other opaque fences or materials shall not be permitted.

(Code 1965, 10747, 10748; Ord. No. 85-45; Ord. No. 01-12, 6; Ord. No. 05-1)

Sec. 122-819. Amendment of approved plan.

(a) Contents. If an applicant amends an approved hillside development plan in any way, it shall be submitted for review to the Planning Manager, and shall include information required in section 122-814(b) to the extent relevant to the requested amendment.

(Code 1965, 10748; Ord. No. 85-45; Ord. No. 01-12, 7; Ord. No. 05-1)

(b) Action. The Planning Manager shall determine whether the proposed amendment constitutes a minor or significant change to the approved hillside development plan.

(Code 1965, 10748; Ord. No. 85-45; Ord. No. 01-12, 7; Ord. No. 05-1)

(1) Except for the criterion stated in subsection (b)(2) below, the criteria set forth in section 122-814(d) shall be considered in determining whether the proposed change in the approved hillside development plan constitutes a significant change. If deemed significant, the proposed amendment shall require review and approval by the Planning Commission.

(Code 1965, 10748; Ord. No. 85-45; Ord. No. 01-12, 7; Ord. No. 05-1)

(2) Any change to building pad and/or driveway elevations shall be considered significant, and shall require review and approval by the Planning Commission.

(Code 1965, 10748; Ord. No. 85-45; Ord. No. 01-12, 7; Ord. No. 05-1)

(3) If the Planning Manager determines that the proposed amendment is minor, said amendment shall be reviewed administratively.

(Code 1965, 10748; Ord. No. 85-45; Ord. No. 01-12, 7; Ord. No. 05-1)

(4) The Design Review Board shall consider significant amendments to hillside development plans pursuant to section 122-816. The Planning Manager may determine that minor deviations from the approved hillside development plan shall be reviewed by the Design Review Board.

(Code 1965, 10748; Ord. No. 85-45; Ord. No. 01-12, 7; Ord. No. 05-1)

Secs. 122-820--122-840. Reserved.

[GRAPHIC LINK](#): Maximum Density at Hillside Parcels

CALCULATION OF AVERAGE SLOPE

The average slope of a parcel is calculated using the following formula:

$$S = 100 I L/A$$

Where:

TABLE INSET:

S	=	Average slope (in percent)
I	=	Contour interval (in feet)
L	=	Total length of all contour lines on the parcel (in feet)
A	=	Area of subject parcel (in square feet)